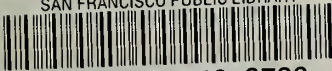


SAN FRANCISCO PUBLIC LIBRARY



3 1223 06243 9790

RECEIVED JUL 11 1996

*Sexual Harassment Task Force*

# Plan and Recommendations



DOCUMENTS DEPT.

MAR 15 2002

SAN FRANCISCO  
PUBLIC LIBRARY

*April, 1996*

*San Francisco  
Commission on the Status of Women*

5/S



*San Francisco Public Library*

GOVERNMENT INFORMATION CENTER  
SAN FRANCISCO PUBLIC LIBRARY

REFERENCE BOOK

*Not to be taken from the Library*

RECEIVED JUL 11 1996

## TABLE OF CONTENTS

	<u>Page #</u>
Introduction	iii
Sexual Harassment Task Force Members	iv
Executive Summary	1
Definition of Sexual Harassment	5
The Plan	7
<i>Creation of a Unit/Office of Sexual Harassment</i>	7
<i>The Unit/Office Organization and Responsibilities</i>	7
<i>Procedural Issues</i>	9
<i>Length of Time to File</i>	9
<i>How a Complaint is Made</i>	10
<i>Alternative Resolutions</i>	10
<i>Investigations</i>	10
<i>Investigator's Standards</i>	11
<i>Final Determination</i>	11
<i>What Trainings Will be Conducted for Employees?</i>	12
<i>Training Model</i>	12
<i>Sexual Harassment Information Tracking System</i>	13
<i>Prevention</i>	13
<i>Cost and Timeline of a Separate Unit</i>	15
<i>What will Happen While Changes Are in Process?</i>	15
<i>Conclusion</i>	16
Summary: Major Recommendations for Change	17
Why Adopt this Plan Now?	19
<i>History</i>	19
<i>The 1994 Sexual Harassment Report</i>	20
<i>Sexual Harassment Task Force and Public Hearing</i>	21
<i>Why Have a Centralized Procedure?</i>	21
<i>Why Have a Specialized Unit/Office for Sexual Harassment Prevention?</i>	23

<i>Why Create a Separate Sexual Harassment Rule?</i>	25
<i>Why Extend Length of Time File?</i>	26
<i>Investigator Issues</i>	27
<i>Why Eliminate Hearings and Appeals?</i>	28
<i>Why Focus on Training and Prevention?</i>	29
<i>Why Create a Sexual Harassment Information Tracking System?</i>	30
<i>Conclusion</i>	31

## **Appendices**

A.	Sexual Harassment Policy	32
B.	Civil Service Commission Rule Three	39
C.	Procedures for the Investigation and Resolution of Sexual Harassment Complaints	43
D.	Investigator Certification Standards	51
E.	Sexual Harassment Code San Francisco Administrative Code Section 16.25	53
F.	Training Considerations and Model	59
G.	Commission on the Status of Women	62
H.	Practical Guidelines	64
I.	Frequently Asked Questions	73
J.	Changes to Performance Appraisal	75
K.	Case Study	76
L.	Resource List	77
M.	Testimony from Public Hearing	100



# **INTRODUCTION**

This document is the result of many hours of work contributed by a wealth of expertise within city government and the private sector. We cannot thank all the participants enough for their tireless efforts - many on a volunteer basis. We wish also to acknowledge and thank the contributions of the City's Affirmative Action Specialists who contributed their comments and experiences in formulating policy and procedures. These individuals work diligently to ensure that a "zero tolerance sexual harassment" policy is preserved and enforced. Department heads, the Human Rights Commission, the Civil Service Commission, union representative, trainers and specialists all contributed with suggestions and testimony. Their assistance is appreciated. The Commission on the Status of Women, both Commissioners and staff, worked tenaciously to facilitate the work of this effort.

Full consensus was easily reached on an improved "zero tolerance" policy. The different approaches to procedures are explained in the "Why Adopt This Plan Now" section. The document is organized as follows:

- **Executive Summary**
- **The Plan**
- **Why Adopt This Plan Now - The Background and Explanation**
- **The Appendix, which contains drafts of policies, rules, procedures, guidelines, resources, training models, testimony, etc.**

For further information please contact:

**Commission on the Status of Women**

25 Van Ness Avenue, Suite 130  
San Francisco, CA 94102  
phone: (415) 252-2570  
fax: (415) 252-2575



# SAN FRANCISCO CITY AND COUNTY'S SEXUAL HARASSMENT TASK FORCE MEMBERS

## **COMMISSIONER/CHAIR**

- ▶ *Caryl Ito*, Businesswoman, Lorraine T. Bozeman and Associates, 676 Miramar Avenue, San Francisco, CA 94112 (415) 334-6759. Ms. Ito served on the expert's panel for the sexual harassment report and chaired the Sexual Harassment Task Force.

## **STAFF**

- ▶ *Ann Lehman*, Women's Rights Specialist, Commission on the Status of Women.
- ▶ *Hillary Flynn*, Consultant to Commission on the Status of Women, Sexual Harassment Task Force,

## **PRIVATE SECTOR INDIVIDUALS**

- ▶ *Michael Adams*, Lawyer, Steel Clarence & Buckley, 301 Pennsylvania Avenue, San Francisco, CA 94107 (415) 920-7102. Mr. Adams is a plaintiff's lawyer, has special interest and substantial background in same gender sexual harassment. He was forced to resign from the Task Force due to time limitations.
- ▶ *Trisha Brinkman*, Consultant/Trainer, Brinkman & Chersky Consulting, 1300 12th Avenue, San Francisco, CA 94122 (415) 661-4040. Ms. Brinkman is a consultant/trainer specializing in sexual harassment and employment discrimination.
  - ▶ Alternate: *Mr. Barry Chersky*, Consultant/Trainer, Brinkman & Chersky Consulting, who shared the Task Force position with Ms. Brinkman, has worked with many organizations including the City of San Francisco, State of California and many private industries and has testified as an expert witness regarding sexual harassment. *Barry Chersky* is also a specialist in gender discrimination issues.
- ▶ *Franchesta James-Grove*, Electrician, IBEW #595, 1314 Hawes Street, San Francisco, CA 94124 (415) 822-6664. Ms. James-Grove is Board President of Tradeswoman, Inc., an association of blue collar women workers which deals with issues of sexual harassment of women in the trades.
- ▶ *Margaret Grover*, Lawyer, Corbett & Kane, 2000 Powell Street, Suite 1450, Emeryville, CA 94608 (510) 547-2434. Ms. Grover has represented management in employment discrimination areas and been involved with alternative dispute resolution of employment claims. She has written a paper entitled: "Mediation of Sexual Harassment Claims: The Benefits and Difficulties."
- ▶ *Jody LeWitter*, Lawyer, Eggleston, Siegel & LeWitter, 1330 Broadway, Suite 1700, Oakland, CA 94612 (415) 451-9500. Ms. LeWitter is a plaintiff's attorney handling sexual harassment cases. She is a San Francisco resident and a partner in an Oakland law firm specializing in employment discrimination cases, including sexual harassment.
- ▶ *Maria Narayan*, Lawyer, Littler, Mendelson, Fastiff, Tichy & Mathiason, 650 California Street, 20th Floor, San Francisco, CA 94108 (415) 433-1940. Ms. Narayan represents management in employment discrimination cases. As a private defense attorney, she sat on the expert's panel for the sexual harassment report. Her specialty is employment discrimination claims, including sexual harassment.
- ▶ *Valerie M. Pinkert*, Vice President & Manager, Employee Relations, Bank of America, South Van Ness Avenue, San Francisco, CA (415) 241-3010. Ms. Pinkert is responsible for BOA's grievance procedures, training and policy regarding sexual harassment. She has trained consultants in how to investigate sexual harassment complaints. She has also conducted sexual harassment investigations.



- ▶ *Frances Pinnock*, Lawyer, Pinnock & Schectman, 1231 Market Street, 8th Floor Penthouse West, San Francisco, CA 94103 (415) 431-4432. Ms. Pinnock is a plaintiff's attorney handling sexual harassment cases who has experience bringing cases against the city and she sat on expert's panel for the sexual harassment report.

## **CITY EMPLOYEES**

- ▶ *Vicki Clayton*, Deputy City Attorney, 1390 Market Street, 5th Floor, San Francisco, CA 94102 (415) 554-4290. Ms. Clayton is the Civil Service's legal advisor and was involved in the drafting of the charter amendments separating the Civil Service Commission from the Department of Human Resources.
- ▶ *Kate Favetti*, Manager, Human Resource Services, Department of Public Health, San Francisco General Hospital (SFGH), Medical Center, Human Resources Services, Building 10, Ward 13, 1001 Potrero Avenue, San Francisco, CA 94110 (415) 206-5528. Ms. Favetti is responsible for setting policy, implementing procedures and answering questions regarding sexual harassment for SFGH. She is also familiar with the Civil Service Commission procedures.
- ▶ *Anne Godfrey*, Manager of Operations, Department of Human Resources, 44 Gough Street, San Francisco, CA 94103 (415) 557-4944. Ms. Godfrey has been a consultant in the private sector on issues of sexual harassment and discrimination and has been involved with the City of San Francisco's performance appraisal program.
- ▶ *Judith Klain*, Manager of Health Planning and Evaluation, AIDS Office, Department of Public Health, 25 Van Ness Street, San Francisco, CA 94102 (415) 554-2605. Ms. Klain is a past Commission on the Status of Women staff member and was instrumental in the compilation of information for the original sexual harassment report completed in August, 1994. She also has experience working as a woman in the trades.
- ▶ *Gloria Louie*, Affirmative Action Program Manager, Department of Public Health, 101 Grove Street, Room 208, San Francisco, CA 94102 (415) 554-2595. Ms. Louie is an Affirmative Action Officer and has performed sexual harassment investigations and training for the Department of Public Health.
- ▶ *Victoria Macklin*, Director of Human Relations, Fire Department, 260 Golden Gate Avenue, San Francisco 94102 (415) 558-3461. Ms. Macklin has a background in affirmative action. She has given training and investigated complaints in the area of sexual harassment for the San Francisco Fire Department.
- ▶ *Melinda Pengel*, Commander, 850 Bryant, San Francisco, CA 94103 (415) 553-9178. Commander Pengel is a 20 year member of the San Francisco Police Department. Prior to her recent appointment to her Commander position, Commander Pengel was stationed at the Police Academy and supervised the department's training and investigation of sexual harassment complaints.
- ▶ *Mary Smith*, Senior Personnel Officer, Department of Social Services, P.O. 7988, San Francisco, CA 94120 (415) 557-5570. Ms. Smith has worked with the issue of sexual harassment as Senior Personnel Officer.
- ▶ *Aleeta M. Van Runkle*, Deputy City Attorney, 1390 Market Street, 5th Floor, San Francisco, CA 94102 (415) 554-4225. Ms. Van Runkle often represents the city when faced with sexual harassment lawsuits.
- ▶ *Dorothy Yee*, Assistant Manager, EEO Programs, Department of Human Resources, 400 Van Ness Avenue, Room 154C, San Francisco, CA 94102 (415) 554-4735. Ms. Yee has been responsible for overseeing City and County Affirmative Action programs and assisting city departments to develop Affirmative Action plans for the last 15 years. She also supervises the investigation of employment discrimination complaints, including sexual harassment complaints.

Alternate: *Esther Leong*, an Affirmative Action Specialist has investigated sexual harassment cases for the Department of Human Resources

# EXECUTIVE SUMMARY

## *Introduction*

The social and economic costs of sexual harassment are tremendous. Individuals who experience sexual harassment suffer psychologically, physically and emotionally. Managers regularly report that workplace morale is severely and negatively affected and collegiality is also injured when an incident occurs. The City cannot afford to tolerate sexual harassment in the workplace.

If the findings of the 1995 U.S. Merit Systems Protections Board Report of Sexual Harassment in the Workplace are applied to the City and County of San Francisco, sexual harassment in the workplace is estimated at costing conservatively \$2 million annually in lost productivity alone.<sup>1</sup> This includes days off, decreased productivity, cost of temporary workers, paying worker's compensation, etc. The additional cost of litigation, payment of settlements and court awards is even more significant. Avoiding even one lawsuit is a tremendous savings. For example, a sexual harassment case was settled against the City in late 1994 for \$77,500; this did not include City attorney and investigation time. In mid-1995 another sexual harassment case was lost by the City and subsequently settled for \$600,000, with at least another \$150,000-\$200,000 of City attorney and staff time in defense. Even when the City wins a case, like it did recently with a high profile department head, it can cost more than a million dollars to defend and result in negative public relations stories.

## *The Sexual Harassment Task Force*

A study completed in August, 1994 entitled Sexual Harassment Complaint Procedures in the City and County of San Francisco Government: Recommendations to Improve the Prevention of Sexual Harassment and the Processing of Complaints, by Merrick T. Rossein

---

<sup>1</sup>The 1995 U. S. Merit Systems Protection Board study conservatively calculated the cost of lost productivity due to sexual harassment to be \$80/annually per federal employee. If this formula is applied to the City and County of San Francisco, with approximately 24,000 employees, the cost of lost productivity for the city is approximately \$2 million/annually.

Associates, recommended the appointment of a Task Force to design a plan for improving the sexual harassment policies for the City and County of San Francisco. Twenty individuals, selected from the private sector and City and County employees, were appointed members to the Sexual Harassment Task Force in May, 1995. The Commission on the Status of Women agreed to staff and chair the Task Force. The Plan created by the Sexual Harassment Task Force also includes recommendations originally made in the 1994 Rossein study. The Sexual Harassment Task Force divided into three working subcommittees shortly after being appointed. These subcommittees focused on procedures, guidelines and training for the Plan. The Procedures Committee recommended specific changes to the internal complaint process. The Guidelines Committee devised one standardized, citywide sexual harassment policy and drafted a set of frequently asked questions and answers to provide direction to all City and County of San Francisco employees. This committee also drafted suggested revisions in the performance evaluation form for supervisors which will assist with sexual harassment prevention. The Training Committee developed a training model and planned the organization and coordination of sexual harassment trainings for all City and County personnel.

#### *A Summary of the Plan*

The Task Force recognizes and strongly supports the recommendation by Merrick T. Rossein and Associates for *full centralization of all equal employment opportunity matters under the Department of Human Resources, Equal Employment Opportunity Office*. The complex logistical details involved in implementing full Equal Employment Opportunity centralization however, were beyond the scope of this Task Force. Instead the Task Force developed a plan for centralization of sexual harassment concerns as a **model** for the eventual and full centralization of all equal employment opportunity issues and which can also be included in a centralized office as a specialized unit. **This Plan implements the centralization of sexual harassment complaints and investigations, provides prevention and training and offers technical assistance and guidance for all City and County of San Francisco personnel.** This document also addresses the major concerns which have been expressed with a change in policy and procedures.



The following is a synopsis of the changes which are part of this plan.

Organizational: The creation of the Unit/Office of Sexual Harassment Prevention within the Department of Human Resources where records and staff are centralized and from which investigations and trainings are uniformly conducted. The emphasis of this new unit/office will be on prevention and education.

Procedural: A policy and rule for sexual harassment complaints. Complainant has 365 days to file a complaint. An investigation must occur within 90 days (with a 30-day extension, optional). The appeal process is eliminated to expedite the entire process.

Training: Annual trainings will be mandatory for all city employees. Sexual Harassment Trainings will be standardized; 3 hours for non-managers, 4 hours for managers.

Prevention: A comprehensive resource list of San Francisco individuals and organizations which are professionally associated with eliminating sexual harassment in the workplace has been compiled. A revised performance appraisal tool has been written to increase employee accountability. A set of practical questions and answers to use as guidelines for dealing with sexual harassment has been drafted.

Tracking: A centralized, limited access tracking system will be established for all complaints of sexual harassment. This system will be used to identify problems.

### *A Summary of How Complaints Will Be Handled*

Sexual harassment situations can often best be handled by immediate, informal resolution at the lowest organizational level. The model Unit/Office of Sexual Harassment Prevention will, therefore, provide technical assistance on informal resolutions as needed by the immediate supervisors, human resource or equal employment opportunity officials involved. **The emphasis will be on prevention, mediation and informal resolution, whenever possible.** Alternative resolutions, if appropriate, will remain an option throughout the complaint process.

A sexual harassment incident that originates in any of the city departments can be reported to either the supervisor of that department or directly to the Department of Human Resources - Unit/Office of Sexual Harassment Prevention. If a supervisor is informed of or is knowledgeable of a sexual harassment complaint/incident, he or she is mandated to report this incident to the

Department of Human Resources immediately. Formal sexual harassment complaints will be investigated by the certified staff<sup>2</sup> of the Unit/Office of Sexual Harassment Prevention in a thorough and timely manner by establishing a response procedure that will expedite the processing of the complaint with his or her union.

Once an investigation is complete, a report will be given to the Director of Human Resources who will make a determination and recommend action. This determination and recommendation will be given to the parties concerned and to the appointing officer to carry out. If corrective action is to take place the affected party may grieve that action.

### *Conclusion*

Initially the model sexual harassment unit will encourage the filing of more complaints and subsequent increased costs because individuals will be testing the new system to see if it works. After preventive education occurs, the new policies will lead to a cultural change in the work environment which will encourage more respect for all employees. This will eventually result in a decrease in costs associated with sexual harassment complaints and an increase in worker morale and workplace productivity.

---

<sup>2</sup> A draft of new certification standards is included with the appendix. Special additional standards may be necessary when investigating a peace officer.

## **Definition of Sexual Harassment**

Sexual harassment is defined as: Any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting said individual; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

B. Examples of behavior which may constitute sexual harassment include but are not limited to:

- Acts from male to female, female to male and between or among individuals of the same sex which are sexual in nature and unwelcome; sexual harassment may be directed against a particular person, persons or group.
- Verbal conduct which is sexual in nature and unwelcome. For example, epithets, jokes, comments or slurs, repeated requests for dates which are unwelcome.
- Nonverbal behavior which is sexual in nature and unwelcome. For example, staring, leering, lewd gestures.
- Physical conduct which is sexual in nature and unwelcome. For example, assault, sexual advances such as touching, patting or pinching, impeding or blocking movement or any physical interference with normal work or movement;

- Visuals which are sexual in nature and unwelcome. For example, posters or signs, letters, poems, graffiti, faxes, cartoons or drawings, pictures, calendars, electronic mail and computer programs.
- Consensual romantic relationships between a supervisor/manager and a subordinate are *not* prohibited by this policy. They do, however, create a potential conflict of interest and are therefore discouraged.

C. Retaliation: Retaliation against any employee or applicant for employment for having made a good faith complaint or report of sexual harassment, or participating or aiding in an investigation of sexual harassment, is strictly prohibited. The retaliation will be considered a serious act of misconduct subject to appropriate discipline up to and including discharge.

Examples of retaliation include but are not limited to:

- transferring the complainant or witness against his or her will
- co-workers or supervisors ignoring the complainant or witness
- spreading rumors and innuendos
- giving different work assignments
- sabotage of tools/materials or work
- withholding work-related information

**Note:** Consensual Relationships: While maintaining, consensual relationships in the workplace are not illegal, they are ill-advised. Other California cities (Santa Rosa, for example) and many private sector companies have prohibited consensual romantic relationships between a supervisor and an employee. The Sexual Harassment Task Force suggests that such relationships may be a basis for sexual harassment.



## THE PLAN

The following recommended plan for centralization of sexual harassment concerns will serve as a **model** for the eventual and full centralization of all equal employment opportunity issues. The Task Force recognizes and strongly supports the recommendation by Merrick T. Rossein and Associates for *full centralization of all equal employment opportunity matters under the Department of Human Resources, Equal Employment Opportunity Office*. The logistical details involved in implementing full Equal Employment Opportunity centralization however, were beyond the scope of this Task Force, which focused on sexual harassment. Full centralization will take further work and study by the various departments involved. The Commission on the Status of Women would be pleased to continue working toward implementing centralization.

### *Creation of a Unit/Office of Sexual Harassment*

The Sexual Harassment Task Force recommends creating a prototype Office of Sexual Harassment Prevention within the Department of Human Resources and has devised this plan with a separate office in mind. If total centralization of all employment equal opportunity functions occurs, the sexual harassment office will instead become a unit within this new centralized equal employment opportunity office.<sup>3</sup> The fully centralized office will include a "sexual harassment team" with a specialized sexual harassment investigator and a sexual harassment human resource specialist. This team or office will be responsible for all items listed below.

### *The Unit/Office Organization and Responsibilities*

The Unit/Office of Sexual Harassment Prevention will be created within the Department of Human Resources. A supervisor/investigator will oversee the operations and will work in coordination with the entire Equal Employment Opportunity and Management & Employee Development Division to ensure that all investigations are timely and that training and prevention

---

<sup>3</sup> This was one of the recommendations of consultant, Merrick Rossein in the report of August, 1994.

are utilized whenever possible. This supervisor will also be available and qualified to conduct both investigations and trainings. The office will also have, when fully functional, two certified investigators and two human resource specialists/trainers who will have knowledge of teaching team building and communication skills. There will be 1.5 FTE support personnel.

The Unit/Office of Sexual Harassment Prevention will have the following responsibilities:

- 1) Establishing an emergency response procedure for sexual harassment reports and investigations (i.e. - counselor of the day/week)
- 2) Responding to all reports of sexual harassment with an initial determination of a formal investigation or an informal resolution
- 3) Handling informal resolutions including technical assistance to immediate supervisors and providing mediation, team building seminars, needs assessment, questionnaires and/or sexual harassment trainings, if necessary
- 4) Formal investigations
- 5) Follow-up on "formal" complaints:
  - if there is a "for cause" finding, the Unit/Office of Sexual Harassment Prevention will be responsible for assuring follow-up with departments on the Director of Human Resources' recommendation for corrective action and with the complainant to see if the harassment has ceased or if there is retaliation
  - if there is a "no cause" finding, then the Unit/Office of Sexual Harassment Prevention will also follow up with the Director's recommended actions and address other issues which may be raised by the investigation, such as poor management or communication, in coordination with other human resources staff
- 6) Coordinating mediation between mutually agreeable parties, when appropriate
- 7) Evaluating, organizing, and maintaining the sexual harassment resource library
- 8) Tracking all reports of sexual harassment and sending out periodic reports
- 9) Centralizing, categorize, list and distribute sexual harassment resources
- 10) Developing a complete model for sexual harassment training program to include the new sexual harassment policies and procedures



- 11) Designing a train-the-trainer program to be delivered to other training staff; work with department staff to be trained so that they can assist with the workshops
- 12) Designing and implement an evaluation tool for initial sexual harassment training and;
- 13) Designing a process for monitoring sexual harassment trainings
- 14) Coordinating and supervise the scheduling of classes for staff of all departments to receive the new sexual harassment training
- 15) Providing new employee and new supervisory training in sexual harassment on an ongoing basis
- 16) Depending on workload, all staff will be available to assist Department of Human Resources, Equal Employment Opportunity and Management & Employee Development Division on other EEO, non-sexual harassment issues/cases<sup>4</sup>

#### *Procedural Issues*

The Task Force's comments on the most current draft of the Civil Service Discrimination Rule Three include policy language prohibiting sexual harassment in the workplace and a "zero tolerance" policy for the City and County of San Francisco. The Task Force has drafted new procedures to be followed when a sexual harassment complaint occurs. **The complete recommended Rule Three and Sexual Harassment Procedures are included in the Appendix.**

#### *Length of Time to File*

This plan follows the August, 1994 Rossein report recommendation to lengthen the filing deadline for complainants to 365 days. It also limits the length of time to complete an investigation to ninety (90) days from the date of filing, unless a thirty day written request for an extension is granted.

---

<sup>4</sup> When complaints include other matters (such as age or race) the division of labor for investigatory purposes will be determined on a case by case basis with Equal Employment Opportunity staff.

### *How a Complaint is Made*

A complaint of sexual harassment under these procedures shall consist of a statement by the employee or applicant specifying those facts and reasons which support the discriminatory charge. Complaints of sexual harassment should be brought to the attention of management (to any supervisor or manager, Equal Employment Opportunity Specialist or Human Resources personnel) as soon as possible after the incident or incidents have occurred. All supervisors and managers throughout the city will immediately report all complaints of sexual harassment to the Department of Human Resources and an investigator from the sexual harassment unit will immediately be assigned to the case.

### *Alternative Resolutions*

**The emphasis will be on prevention, mediation and informal resolution, whenever possible.** A human resource specialist will be available for technical assistance on informal resolutions and/or to facilitate alternative resolutions. Mediation or settlement, if appropriate, will remain an option throughout the complaint process.

### *Investigations*

Sexual harassment investigations will be conducted immediately by certified investigators. The certification process for sexual harassment investigators includes a grand fathering in of current staff with the approved training and approval of the Director of Human Resources and the City Attorney.

The investigation procedures include the (former) interim steps of reviewing and assigning a case, scheduling an intake, and the department's response to a Request for Information (RFI). Departments are not to be "charged"; (this is not an "us vs. them" situation) but rather an investigation of the facts to determine in the most timely, impartial and effective manner what occurred. The investigative report will contain findings as to whether a complaint is justified and will be given to the Director of Human Resources for a final determination.

### *Investigator's Standards*

A thorough and unbiased investigation of a sexual harassment complaint is central to the success of any sexual harassment procedure and has implications for the success or failure of the overall policy. The plan calls for some higher standards for all investigators, more training for investigative staff and specialized training in the area of sexual harassment. A draft of model Investigator Standards for all investigators is included in the Appendix.

The Task Force recommends the hiring of an outside consultant to work in coordination with the City Attorney's Office to conduct specialized sexual harassment investigator trainings.<sup>5</sup> These trainings will be conducted for the appropriate personnel by an outside, hired consultant in conjunction with the City Attorney's Office. Additionally, this consultant will be hired to review the training package/presentation which will be presented to employees and managers throughout the city.

### *Final Determination*

After the investigation is complete, the Director of Human Resources will make a final determination with a recommendation for action. If the final determination is that the complaint is "for cause" the Director will also recommend corrective action. All parties concerned will be notified in writing of the final determination and the action recommended. Privacy issues and confidentiality will be maintained to the greatest extent possible. The final determination and recommended corrective action will be implemented by the appropriate appointing officer and placed in the accused's personnel file. The accused's particular's MOU's grievance procedure will be available for any corrective action imposed.

If the final determination finds that the complaint is not justified, but the investigation revealed that some human resource problem exists, the Director will also make a recommendation for departmental action. This action may include, but is not limited to, an assessment of workplace

---

<sup>5</sup> This training may be done in conjunction with other equal employment opportunity investigator training, with a specialized section on sexual harassment issues.



environment or trainings in supervision, diversity, teambuilding and/or communication.

### *What Trainings Will Be Conducted for Employees?*

The implementation plan for the new sexual harassment policy will occur in two phases. Phase I will last 24 months and will be an "initial phase" training period during which every city employee will receive a *minimum* of two hours of sexual harassment training incorporating the new policy and procedures and the core content listed in the appendix. There will be two versions of this initial phase of training: one for employees and one for supervisor/managers<sup>6</sup>. (For those employees who have recently received sexual harassment training, an abbreviated catch up training session will be developed to present only the new sexual harassment policy & procedures). All supervisors and managers, by virtue of their positions are held to a stricter legal accountability. They will be trained in Phase I. Phase II is intended to educate the non-management employees on the issue of sexual harassment and will also ensure that new employees and managers receive trainings. Phase II will extend into the future and will include regularly scheduled sexual harassment trainings for new city employees (three hours), new managers (four hours) and "spot" sexual harassment training wherever necessary and upon request. A recommended annual review will be conducted in all departments.

### *Training Model*

Included in all trainings will be a core content for all employees and a specialized core content for managers who have additional responsibilities. A recommendation for this model has been provided by the Training Committee of the Sexual Harassment Task Force and is in the Appendix.

The Unit/Office of Sexual Harassment Prevention will develop a more detailed model for all sexual harassment trainings, using current training materials as a basis for update, revision and improvement. An abbreviated version of the model will be used for Phase I trainings while the full-length model will be used for Phase II trainings.

---

<sup>6</sup> This includes department heads, directors and high level appointees, all of whom will need to be trained in the new policies.

### *Sexual Harassment Information Tracking System*

To assist City officials with recognizing problem areas, the Task Force has designed a Sexual Harassment Tracking System which will catalog facts about all sexual harassment complaints filed throughout the city, formal and informal. This tracking system has been designed with specific attention to the privacy of the involved individuals and will have limited access. Access will be given only to the Unit/Office of Sexual Harassment Prevention staff. It will also be used to generate periodic reports on sexual harassment for monitoring and to take action when a problem becomes apparent.

This tracking system will also ensure that “for cause” findings are both in the accused’s personnel file and in a centralized location. The use of this tool will ensure that the consideration of specific sexual harassment findings are part of any employment decisions. It will be useful because now there will be a system to check the specific employee’s employment history as it relates to sexual harassment.

The tracking system is described in more detail in the Appendix within the draft of the revised administrative code on sexual harassment.<sup>7</sup>

### *Prevention*

The focus of the recommendations from the Rossein report and the Task Force is on prevention and education. The Task Force developed/drafted a number of prevention-oriented tools to be implemented citywide (ie: private sector, federal agencies, nonprofit agencies, City and County agencies). They are:

---

<sup>7</sup> These changes will be incorporated into either the City and County of San Francisco, The Sexual Harassment Law (Administrative Code, 16.9-25.), or the new sexual harassment procedures to the internal processes set up at the new unit.

- *Practical employee/employer guidelines.* The Task Force created a Guidelines Handbook to address the practical needs of managers and non-managers regarding prevention of sexual harassment. This handbook addresses the respective responsibilities and concerns by posing frequently asked questions and providing very specific, practical answers.<sup>8</sup> *See Appendix, Sexual Harassment Guideline Questions. Management Guidelines: Questions and Answers.* The answers to some of these questions were completed for a recent workshop the Mayor and the City Attorney's Office put on for top management on sexual harassment. *See Appendix.*
- A comprehensive list of sexual harassment resources (counseling, legal, technical assistance, consultants, trainers, etc.).

The Task Force collected and created a large volume of material on sexual harassment. The Task Force was not able to evaluate each book, video or consultant because of limited time and resources but the Task Force did compile a list of resources to be distributed with a disclaimer for individuals and organizations throughout the City of San Francisco. *See Appendix.*

- A revised Performance Appraisal tool for manager employees.

The Task Force has made simple, straightforward suggested additions to the appraisal forms which will, necessarily, increase accountability if they are properly implemented. These can also be used as a model by other organizations (federal agencies, private sector, nonprofit agencies, etc.) to adapt their performance appraisals accordingly. *See Appendix.*

---

<sup>8</sup>At the time of printing not all questions were answered. In the Appendix is the Manager's questions and answers - there are still some additional questions that will be included in future drafts of this document.



### *Cost and Timeline of a Separate Unit*

If a separate model Office of Sexual Harassment Prevention is created, the total budget would be approximately \$400,000 when fully operational. This would cover:

- ▶ an office administrator/investigator
- ▶ two full time investigators
- ▶ two human resource specialists
- ▶ one and a half support staff
- ▶ overhead expenses.

The full staffing of the office may be implemented over a four year period, reducing the costs for the first few years. As compared to even one sexual harassment lawsuit settlement, this a small cost in the interest of significant long-term savings. A detailed timeline is included in the appendix for the implementation of the unit/office. The additional approximate cost of cost of hiring a consultant for investigator trainings and training material review would be \$25,000.00.

### *What will Happen While Changes Are in Process?*

The Task Force anticipates that it will take some time to fully implement many of the changes included herein. It is the recommendation of the Task Force that a sexual harassment ombudsman be appointed, at the Department of Human Resources, to begin work immediately on assisting with investigations, technical assistance on informal resolutions and trainings. The use of this ombudsman would be a service to department managers and complainants while the changes are being implemented; it would not be mandatory until all changes are implemented appropriately.

The Commission on the Status of Women expects to continue its role of monitoring sexual harassment complaints and the implementation of the recommendations herein. The Commission is also available to assist with trainings and to offer technical assistance to both individuals who

experience sexual harassment and supervisors who need help handling particular situations.

### *Conclusion*

Initially, the model sexual harassment unit may result in the filing of more complaints and subsequent increased costs because individuals will be testing the new system to see if it works. After preventive education takes place, the new policies will lead to a cultural change in the work environment which will encourage more respect for all employees. This will eventually result in a decrease in costs associated with sexual harassment complaints and an increase in worker morale and workplace productivity.

**SUMMARY:**  
**Major Recommendations for Change (April, 1996)**

**CURRENT PROCEDURES**

**RECOMMENDED REVISIONS**

WHAT	HOW	WHAT	HOW
<b>Sexual Harassment Policies</b>	Variety of policies in various depts.	<b>Sexual Harassment Policies</b>	One standardized, citywide policy.
<b>Sexual Harassment Trainings</b>	Variety of trainings provided by various depts.	<b>Sexual Harassment Trainings</b>	Coordinated and standardized by Dept. of Human Resources, Office/Unit of Sexual Harassment Prevention.
<b>Sexual Harassment Reporting: formal and informal</b>	Reports of female complainants go to COSW on a monthly basis, (without names). Annual reports are also sent to DHR-EEO which include male and female complainants.	<b>Sexual Harassment Reporting: formal and informal</b>	All reports of sexual harassment go immediately to office/unit of sexual harassment prevention. Confidential tracking of complaints. "For Cause" findings put in personnel file.
<b>Disciplinary Action</b>	Appointing Officer may implement discipline at any time, depending on circumstances. MOU's grievance procedure and timelines apply for disciplinary action.	<b>Disciplinary Action</b>	Appointing Officer may implement discipline at any time, depending on circumstances. MOU's grievance procedure and timelines apply for disciplinary action
<b>Deadline for filing a complaint</b>	30 calendar days.	<b>Deadline for filing a complaint</b>	365 calendar days.



WHAT	HOW	WHAT	HOW
<b>Investigations: formal</b>	DHR often defers to departments or other investigative agency. No set standards for investigators.	<b>Investigations: formal</b>	All formal investigations conducted by DHR. All investigators must meet new standards.
<b>Initiate Investigation</b>	No time limit.	<b>Initiate Investigation</b>	Recommended within 48 hours of receiving complaint.
<b>Offer Informal Resolution</b>	After formal complaint made.	<b>Offer Informal Resolution</b>	Offered at any time, includes mediation, training, counseling and communications skills and team building.
<b>Investigative Procedure: Investigate, charge dept. And request RFI, complete report</b>	No time limit to initiate or complete investigation. Various time limits for investigatory phases.	<b>Investigative Procedure: Investigate, information gathering, prepare final report</b>	Entire investigation completed within 90 days. RFI becomes part of any investigation at any time. NOTE: Departments will not be "charged" but will be "consulted".
<b>Hearing: Hearing Panel Review of Report</b>	Various time limits- <i>automatic review</i> and hearing if "for cause".	<b>Hearing</b>	Eliminated
<b>Corrective Action &amp; Remedy</b>	Review Panel makes findings and a remedy for the complainant. HR Director's input not required	<b>Corrective Action &amp; Remedy</b>	Within 10 working days. Human Resources Director issues a final determination and recommendation. Decision returns to appointing officer for immediate implementation of corrective action and any additional actions to make the complainant whole. if "for cause" placed in accused's personnel file. If "no cause" HR recommends possible human resources assistance.
<b>Appeal to Civil Service Commission</b>	30 calendar days	<b>Appeal to Civil Service Commission</b>	Eliminated.



# WHY ADOPT THIS PLAN NOW?

## *History*

Sexual harassment in the workplace results in decreased productivity<sup>9</sup>. The morale of individuals who experience sexual harassment say that morale is severely and negatively affected and office collegiality is injured. City and County employees describe being targets of sexual comments, lewd jokes, staring, leering, comments about their anatomy, inappropriate touching, sabotaging of tools or work, exclusion from job advancement and even sexual assault. In a study of female and male blue-collar City and County of San Francisco employees conducted by Sharon Aurora in 1992, almost 70% of the female respondents and approximately 10% of the male respondents stated that they had experienced sexual harassment on the job.<sup>10</sup> During fiscal year 1992-93 there were 201 formal complaints and 14 lawsuits filed by female city employees costing \$1,623,548<sup>11</sup>, the majority of which involved sexual harassment. Sexual harassment complaints by city employees increased 62% between 1988 and 1993 (42 in 1988, 68 in 1993).<sup>12</sup>

In 1991, Supervisor Roberta Achtenberg held hearings on sexual harassment in which it was reported that "less than 9% of women who experience sexual harassment reported it and more than 90% of the women who did report experienced retaliation."<sup>13</sup>

---

<sup>9</sup> Sexual Harassment Complaint Procedures in the City and County of San Francisco Government: Recommendations to Improve the Prevention of Sexual Harassment and the Processing of Complaints, by Merrick T. Rossein Associates, August, 1994.

<sup>10</sup> The Pervasiveness of Sexual Harassment of Women in Blue-Collar Jobs in the City of San Francisco and the Differing Perceptions Between Men and Women as to What Behaviors Actually Constitute Sexual Harassment. A Senior Project Submitted by Sharon Aurora, The University of San Francisco, June 28, 1992.

<sup>11</sup> Rossein, p 3.

<sup>12</sup> Commission on the Status of Women, Statistical Research, January 24, 1994.

<sup>13</sup> Judith Klain, former Employment Specialist for the Commission on the Status of Women, at a public hearing held on January 18, 1996. Frances Pinnock, a plaintiff's attorney, reported at the public hearing on January 18, 1996 that the "*retaliation is totally prevalent throughout the City.*"

At a time when sexual harassment in the workplace is still considered pervasive<sup>14</sup>, budget cuts at the Department of Human Resources (DHR), (the department responsible for most investigation and training in this area), have contributed to the problem. In the last four years DHR has been forced to reduce staff. Currently there are four (4) Equal Employment Opportunity officers at DHR who are responsible for investigating employment discrimination complaints for the majority of city departments as well as many other responsibilities.

### *The 1994 Sexual Harassment Report*

A study was commissioned in 1994 to analyze the City and County policies and procedures. The study was completed in August, 1994 entitled Sexual Harassment Complaint Procedures in the City and County of San Francisco Government: Recommendations to Improve the Prevention of Sexual Harassment and the Processing of Complaints, by Merrick T. Rossein and Associates. Marci Seville, Director of the Women's Economic Rights Clinic at Golden Gate University of Law, was part of the research team. She testified at a recent public hearing that the current city process is extremely complicated because, there are many sources dictating the management of sexual harassment: the Civil Services Rules, Proposition L (which created the Department of Human Resources) administrative codes and different department policies. Ms. Seville noted that "*no one had ever worked through how these different procedures would be meshed together.*" Ms. Seville expressed the concern that "relatively few people within the department had a good grasp of the process" to file a complaint. The most disturbing discovery for her was the "disparity of how things were handled from department to department. Whether something was "addressed effectively . . . was totally haphazard depending on the luck of the draw and depending on what department you were in." Ms. Seville states that this discovery was the primary basis for recommending a uniform policy and centralized procedure. Complainants need to have a "concrete notion of where to go and how to go about it."

---

<sup>14</sup> 1995 U.S. Merit Systems Protection Board study.



### *Sexual Harassment Task Force and Public Hearing*

The report also recommended the appointment of a Task Force to design a plan for improving the sexual harassment policies for the City and County of San Francisco. Twenty private sector and City and County employees were appointed members to the Sexual Harassment Task Force in May, 1995. The Task Force members represent a variety of debarments and positions, private sector individuals, plaintiff and management lawyers and individuals who have experienced sexual harassment and sexual harassment complaint procedures. The Commission on the Status of Women agreed to staff the Task Force and Commissioner Caryl Ito was made Chair. The Task Force divided into three committees, met regularly over a six month period and drafted this implementation plan.

On January 18, 1996, the Sexual Harassment Task Force and the Commission on the Status of Women held a joint public hearing with the Human Rights Commission and the Civil Service Commission to hear testimony about the Task Force's draft Plan. Many individuals testified and submitted written materials in response to the draft document including Mayor Willie Brown, Affirmative Action Specialists, union representatives, City employees, members of the Task Force, private sector employees and individuals who have experienced sexual harassment on the job. The City of Chicago submitted written materials detailing the structure of the specialized sexual harassment unit which they established two years ago and they included statistics which indicate a significant increase in the number of sexual harassment complaints which have been filed, as a result. Many perspectives were voiced at the hearing. These perspectives have been documented in the *Summary of Testimony and Written Materials (see Appendix)* and were considered by the Task Force during the final drafting of this Plan.

### *Why Have a Centralized Procedure?*

This centralized procedure is needed now because the current San Francisco city policy is not working. There are at least 66 different departments, each with its own sexual harassment policy and complaint procedures. Each department is currently free to make its own determination as to

who is investigated and how investigations of complaints are completed. Thus, departments currently may handle complaints and conduct investigations with any one (or more) of the following resources:

- 1) Decentralized *departmental*<sup>15</sup> Equal Employment Opportunity staff
- 2) *Department of Human Resources*, Equal Employment Opportunity staff
- 3) Department Human Resources staff
- 4) Outside counsel
- 5) City Attorney's staff
- 6) Outside agencies, such as the Federal Equal Employment Opportunity Commission; or the State Department of Fair Employment and Housing.

This variety of options has resulted in a great deal of confusion about who handles complaints, different skill levels for the various investigators and misinformation about what to do when a harassing situation arises. This inconsistency also allows for two different individuals, committing the same sexual harassment offense (located in separate departments) to receive different punishments. Additionally, there is no central location for tracking problem employees so that the same individual may cause a problem in one department, be transferred, and cause the same problem elsewhere. Finally, some sexual harassment trainers are currently misinformed as to where to instruct city employees to file complaints with so many different alternatives available. **We need *one* standard policy, *one* uniform procedure and *one* centralized office to eliminate the current checkerboard of internal and external options.**

The current decentralization of many of the investigative procedures for sexual harassment complaints throughout the city also gives, at minimum, the appearance of a conflict of interest. Right now, departments are often investigating themselves. Current policy also allows for individual departments to choose and implement their own penalties with a variety of results.

---

<sup>15</sup> These Departments include: Dept. of Public Health, Dept. of Public Works, Dept. of Social Services, SF Fire Dept., SF Police Dept., SF Unified School District, Public Utilities Commission, SF Community College.

Centralization of complaints under one unit and one uniform policy will eradicate this inconsistency and the appearance of conflict. This centralization of sexual harassment also follows the approach taken by the recently enacted Charter Reform which moves toward centralized lines of authority. The current revision of the Civil Service Commission employment discrimination rules is also attempting to solve some of this disparity by setting up centralized standards for investigation.

### *Why Have a Specialized Unit/Office for Sexual Harassment Prevention?*

The City and County of San Francisco has an Administrative Code (Sec. 16.9-25) establishing a sexual harassment program including special reporting method and unique requirements regarding policy distribution and discipline.<sup>16</sup> As recently as February, 1996, Mayor Willie Brown ordered a sexual harassment training for 500 city managers. The State of California also has laws that single out sexual harassment for special types of attention.<sup>17</sup> Sexual harassment is unique and has some unusual legal requirements, as explained in the following observation.

Unlike cases of racial and religious harassment, where offensive behavior is *assumed* to be unwelcome, the Supreme Court has placed welcomeness at the heart of the sexual harassment inquiry and burdened the victim with proving she neither invited nor welcomed the conduct of which she is complaining.<sup>18</sup>

Sexual harassment, not unlike domestic violence and rape, is still commonly seen as something an individual asks for if she or he does not loudly and clearly object rather than as offensive conduct that is *perpetrated on* someone. Many individuals who experience sexual harassment in the workplace are understandably uncomfortable with filing a complaint or seeking assistance in this

---

<sup>16</sup> In addition, the new proposed Civil Service Commission Rule 3, drafted by the staff of the Department of Human Resources - Equal Employment Opportunity, singles out sexual harassment for special mention in their proposed Rules 3.05, 3.10, 3.11 and in the procedures Rule XVI. This draft is dated May 4, 1995.

<sup>17</sup> CA Government Code #12950 Sexual Harassment; amendment of poster, distribution of information sheet.

<sup>18</sup> Fitzgerald, et al, *Why Didn't She Just Report Him? The Psychological and Legal Implications of Women's Responses to Sexual Harassment*, Journal of Social Issues, Spring 1995, Vol 51, p. 132., referring to the U.S. Supreme Court *Vinson* decision.



area because of the very private/personal nature of sexual harassment. Study after study demonstrates<sup>19</sup> that most individuals are loath to file a formal complaint about sexual harassment. The creation of this office is consistent with similar procedures in both the public and private sectors<sup>20</sup> which recognizes the serious nature of sexual harassment. The City of Chicago, with 24,000 employees, set up a similar office in 1993. The number of complaints went from one "for cause" finding in a number of years to almost fifty in less than two years. A more detailed description of the Chicago office is included in the appendix under written testimony from Andra Gomberg and Barbara Engel.

Both the personal and legal reasons reflect the need, and the growing trend, to create a separate sexual harassment unit which will house the specialists who have the expertise, the commitment and the authority to support individuals who are experiencing sexual harassment on the job and the supervisor and manager who must enforce the policy and set a "zero-tolerance" standard. This is the direction institutions are moving toward because it allows for a more consistent response and a centralized reporting mechanism to deal with problems and offer solutions uniformly.

An integral part of this office's ability to offer practical solutions to sexual harassment and other management/human resource issues is the skilled attention of two Human Resource Specialists who will be working out of the centralized Unit/Office of Sexual Harassment Prevention. These individuals will be knowledgeable in the areas of sexual harassment, communication, team building, diversity, performance appraisals and conflict resolution. These skills will be employed with a philosophy which stresses prevention.

The separate unit, the centralization of complaints, the uniform policy and the use of Human Resource Specialists all send a new and much needed message to employees of the City and

---

<sup>19</sup> *Ibid.*

<sup>20</sup> The University of California at San Francisco also set up a similar office in early 1993 and has experienced an increase in formal complaints from 7 to 36 in over two years. Additionally, The Universities of California at Santa Cruz and San Diego follow this model. Similarly, Bank of America has a centralized office for investigations of all sexual harassment complaints.



County of San Francisco that sexual harassment is a matter to be taken seriously and will no longer be tolerated in any form whatsoever. In this way, the City and County of San Francisco will be able to count itself among the forward-thinking localities nationwide in its effort to address this problem in today's workplace.

Some have raised the issue that if the Unit/Office of Sexual Harassment Prevention is formed, it should be located within the office of Commission on the Status of Women. It would be difficult for COSW to maintain its advocacy role on behalf of women and investigate all allegations of sexual harassment that are made primarily by women against men. This would create, at least, the appearance of a conflict of interest, which is one of the things the Task Force is attempting to correct.

### *Why Create a Separate Sexual Harassment Rule?*

Traditionally the Civil Service Commission has had a rule that covers filing an internal complaint procedure for all discrimination complaints. The new Charter reiterates that the Civil Service Commission shall, by rule, establish procedures to review and resolve allegations of discrimination. The Department of Human Resources and the Civil Service Commission have been working on redrafting the old discrimination rule and procedures to meet new charter and legal requirements.

The Sexual Harassment Task Force has attempted to fit into this rule and procedures the unique concerns both practically and legally raised in a sexual harassment complaint matter. For instance, legally all investigations must "*be immediate, thorough, objective and complete . . . there must be prompt and effective remedial action . . . First, appropriate action must be taken against the harasser and communicated to the complainant . . .*"<sup>21</sup>

---

<sup>21</sup> Ibid. Department of Fair Employment and Housing brochure.

Although an effort has been made to combine all considerations into one rule and one procedure, efforts have not been entirely successful. Many individuals have questioned the need for a specialized rule or procedure for sexual harassment cases. Some people have felt that having specialized procedures or a specialized office would diminish other types of discrimination. This is certainly not the intent of any Task Force member. For many of the same reasons the Task Force feels some specialization in this area is necessary, it also feels that the law calls for some specific procedures that should be followed in sexual harassment matters. If the Civil Service Commission feels that many of the unique requirements necessary for a sexual harassment complaint are also justified in other EEO matters, the Task Force supports the use of one set of procedures, modeled on these sexual harassment procedures.

Having a separate policy and procedure for sexual harassment complaints is the common practice used in most organizations. In fact, Mayor Willie Brown gave as an example at the public hearing on January 18, 1996. In fact, he handed out a copy of the sexual harassment policy and procedures he devised when working at the California State Assembly (see written materials submitted at January 18, 1996 in Appendix).

#### *Why Extend Length of Time to File?*

This lengthening of the filing deadline from its present thirty day limit to one year coincides with the statute of limitations set by the state agency - Department of Fair Employment and Housing and is also a common practice. Most private sector companies put **no time limits** on when a complaint can be raised because if there is a problem, management wants to know about it and take necessary steps to correct the problem. This gives complainants sufficient time to file a complaint and encourages individuals to remain within the City's internal procedures instead of being forced to file with an outside agency. An internal investigation is much less expensive than an outside investigation or lawsuit. While it is always preferable to investigate a matter sooner rather than later, the delay hurts the complainant the most, making it in his or her best interest to report all matters as soon as possible.

## *Investigator Issues*

As stated by Littler, Mendelson, Fastiff, Tichy and Mathiason, one of San Francisco's leading management-side law firms, a complete investigation has significant implications regarding litigation also.

The duty of an employer to conduct an independent investigation of various workplace complaints and incidents (not just sexual harassment complaints) is becoming more and more important. The quality and scope of the investigation may be the single most important factor in avoiding later litigation . . . <sup>22</sup>

Added to this already high investigatory burden are the uniquely difficult issues sexual harassment raises about sexuality, personal relationships and the abuse of power. This makes requiring personal questions more delicate. The issue of consent (i.e., determining if the behavior is "unwanted") is always present and unique in this area of discrimination. For these reasons it is imperative that investigators be highly trained and sensitized to these matters. The Task Force supports the efforts of the Department of Human Resources to develop uniform standards for investigators of Equal Employment Opportunity matters. A draft of new standards is included in Appendix D.

A recent court case held *the employer free from liability* for the behavior of its worker since the employer took preventive and immediate corrective action when an incident occurred. This California Supreme Court case, occurring in Santa Clara County, held the County was not responsible for the wrongful sexual harassment acts committed by its worker because the county had its own internal complaint procedure and investigation specifically for sexual harassment complaints. Management attorneys interpreting the Santa Clara case (and another recent Los Angeles County hospital case) predict that employers will now rely on the California Supreme Court decision to argue that if they have taken all necessary steps to prevent sexual harassment in

---

<sup>22</sup>Conducting Employee Investigations: Legal Parameters and Practical Suggestions, Littler, Mendelson, Fastiff, Tichy & Mathiason, 1995.



the workplace, they should then be free of any legal liability. Attorneys have further stated that this gives “employers a strong defense against being held responsible for the sexual misconduct of their employees.”<sup>23</sup>

Because the sooner these problems can be handled, the less likely they will develop into costly litigation, the Task Force recommends that an investigation begin immediately upon receiving notice (recommended within 48 hours) and be completed within thirty days. At a recent (March 21, 1996) *Workshop on Sexual Harassment - The Employer's Duty to Educate, Investigate and Eliminate*, one of the City's leading management law firms stated that “most investigations should be started within twenty-four (24) hours and completed within three (3) weeks.”

### *Why Eliminate Hearings and Appeals?*

The suggested procedures do not include a hearing or an appeal. The Task Force was hesitant to remove this avenue for redress because currently it is the only avenue a complainant has to protest that the process of investigation was not adequate. However, in the interest of resolving these matters as quickly as possible, the Task Force recommends dropping both the hearing and the appeal in sexual harassment complaints. A fast resolution of these matters is not only practically imperative it is also legally required.<sup>24</sup> An appeal process for sexual harassment complaints is very unusual in the private sector and is not required by any of the enforcement agencies.

If the Civil Service Commission feels that an appeal is necessary it should be limited to “no cause” findings. Since any “for cause” determination (with corrective action) would be grievable by the employee's union, the accused already has a right to a hearing. If the current full appeal rights are to remain as part of this procedures the appealable time limits need to be very short so that a final

---

<sup>23</sup> San Francisco Chronicle, sec. A, p. 13, January 15, 1996

<sup>24</sup> Government Code Sections 12940. See also the brochure that the department of Fair Employment and Housing requires all employers to distribute to its employees wherein it states “if proven, there must be prompt and effective remedial action.



determination and resolution can happen relatively quickly.

### *Why Focus on Training and Prevention?*

The Rossein Study<sup>25</sup> stated that:

the single most effective way to prevent sexual harassment in the workplace is to provide all workers, from the leaders of organizations through entry-level employees, with effective training. Training is the only way to provide the information that employers and workers need to understand the problem including overcoming myths, stereotypes and personal attitudes about sexual harassment; learning guidelines for appropriate workplace conduct; communicating the City's commitment to the elimination of sexual harassment; and explaining the sanctions that will be imposed for acts of harassment.

In February, 1996, the City and County of San Francisco, under the leadership of Mayor Willie Brown, conducted an unprecedented major workshop on sexual harassment for department directors and their 500 top supervisors and managers. By announcing that training should occur annually, the Mayor demonstrated his leadership in sending a "no tolerance" message to the workforce. Training is the best deterrent tool available to the City in preventing occurrences of sexual harassment and thus should be mandatory for all employees.

Currently, sexual harassment trainings are conducted by the Department of Human Resources' Management and Development Division, local department's Equal Employment Opportunity divisions and Human Resources staff, as well as hired private consultants. As a result, there are inconsistencies in the message which is relayed to city employees about city policies and employees' options and responsibilities. The new unit/office will provide standardization of all training.

Unions would also like to participate in the trainings. The Task Force for recommends that union field representatives receive training in the area of sexual harassment so that they can adequately assist complainants.

---

<sup>25</sup> Rossein, p. 35.

### *Why Create a Sexual Harassment Information Tracking System?*

Currently no adequate systems exist for tracking sexual harassment complaints, reports and problematic employees (though the Commission on the Status of Women receives reports, it never gets complete information on offenders or complainants.)<sup>26</sup> Right now an employee who is found to be a harasser can move from department to department and continue his or her behavior with no system in place to keep that from happening. Because sexual harassment is often a repeated offense, it is essential that attention be given to keeping records of all complaints and resolutions, and ensuring that settlements and reports of incidents are kept. Information made available to management personnel with a specific need to know<sup>27</sup> through the central tracking system. This will give the City a better understanding of where problems exist and will allow for citywide systematic analysis.

There are concerns about privacy raised by any record-keeping system. The tracking system will be confidential and only those with a legitimate business reason to know should have access.

Employee accountability has been increased by suggested improvements made to the current San Francisco Employee Performance Appraisal Forms. It has been noted that occasionally employees had favorable performance appraisals even with a history of sexual harassment offenses in the workplace. This inconsistency and lack of accountability promote the belief that the city and its departments do not take sexual harassment seriously and that there is not a system to insure otherwise.

---

<sup>26</sup> COSW reports are only regarding complaints of female employees.

<sup>27</sup> Information will be given to management personnel who have a legitimate business need to know. For example, any time a transfer or promotion is being considered, management will need to have the Sexual Harassment Office staff check the "for cause" records to ensure that harassers are not promoted or transferred without consideration of their employment history.

### *Conclusion*

Implementation of this plan will require the cooperation of many different people to navigate the administrative landscape of this city. Initially, the model sexual harassment unit will encourage the filing of more complaints and subsequent increased costs because individuals will be testing the new system to see if it works. If implemented thoroughly, the Task Force believes that this recommended plan will go a long way toward eradicating sexual harassment in the City and County of San Francisco in the long run.





## **Appendix A**

### **Sexual Harassment Policy for the City and County of San Francisco**



## SEXUAL HARASSMENT POLICY FOR THE CITY AND COUNTY OF SAN FRANCISCO

[The purpose of this draft is to assist with the implementation of the Plan of the Sexual Harassment Task Force. Recommended changes from the Plan have been inserted into the following documents:

- *Sexual Harassment Policy for the City and County of San Francisco (Appendix A)*
- *Civil Service Rule Three (Appendix B)*
- *Procedures for the Investigation and Resolution of Sexual Harassment (Appendix C)*
- *Investigative Certification Standards (Appendix D)*
- *Sexual Harassment Administrative Code 16.9-25 (Appendix E)*

Because these recommended changes are divided amongst the five above-mentioned documents, all five documents must be considered at one time for a complete picture of the total implementation plan. The City Attorney advises that, due to the new San Francisco Charter (July 1, 1996), placement of various sections may ultimately need to be transferred between the above-mentioned documents.]

A. Policy: Each city employee has the right to work in an environment free of discrimination, including sexual harassment. Sexual harassment is prohibited by local ordinance as well as state and federal law (the San Francisco Administrative Code, Section 16.9-25, Chapter 6 of the California Fair Employment and Housing Act, and Title VII of the Civil Rights Act of 1964, as amended). Sexual harassment is unacceptable and will not be tolerated in the workplace. This policy applies to all employees and prohibits sexual harassment of employees by clients and contractors of the City and County of San Francisco and the general public. It is the policy of the City and County of San Francisco to provide a workplace in which all individuals are treated with respect and dignity. The City and County of San Francisco recognizes that the elimination of sexual harassment in the workplace will create a better work environment, increase productivity, and improve relationships for all employees.

B. Application: This policy applies to all phases of employment, including but not limited to recruitment, testing, hiring, upgrading, promotion or demotion, transfer, layoff, termination, benefits and selection for training.



C. Prevention: In order to create and maintain a sexual harassment-free workplace, the City and County will take all reasonable steps to:

- set an example through its leadership & management that sexual harassment will not be tolerated;
- create and implement standard policies and procedures that emphasizes prevention, alternative resolution and formal investigations;
- train and educate management and public officials as to their responsibility to carry out the policy of the City and County;
- train and educate employees regarding sexual harassment issues and policy;
- provide a centralized internal complaint process in the for the reporting of sexual harassment matters; and
- investigate all formal complaints in a timely manner and take appropriate corrective action up to and including discharge, when warranted.

### *Conduct Prohibited*

A. Definition of sexual harassment: Sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature. Sexual harassment occurs when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting said individual; or
- (3) such conduct has the purpose or effect of unreasonably interfering with an individual's

work performance or creating an intimidating, hostile, or offensive working environment.

B. Examples of behavior which may constitute sexual harassment include but are not limited to:

- Acts from male to female, female to male and between or among individuals of the same sex which are sexual in nature and unwelcome; sexual harassment may be directed against a particular person, persons or group.
- Verbal behavior which is sexual in nature and unwelcome, e.g., epithets, jokes, comments or slurs, repeated requests for dates which are unwelcome.
- Nonverbal behavior which is sexual in nature and unwelcome, e.g., staring, leering, lewd gestures.
- Physical conduct which is sexual in nature and unwelcome, e.g., assault, sexual advances such as touching, patting or pinching, impeding or blocking movement or any physical interference with normal work or movement;
- Visual which are sexual in nature and unwelcome, e.g., posters or signs, letters, poems, graffiti, faxes, cartoons or drawings, pictures, calendars, electronic mail and computer programs;
- Consensual romantic relationships between a supervisor/manager and a subordinate are *not* prohibited by this policy. They do, however, create a potential conflict of interest and are therefore discouraged.

C. Retaliation: Retaliation against any employee or applicant for employment for having made a good faith complaint or report of sexual harassment, or participating or aiding in an investigation of sexual harassment is strictly prohibited. The retaliation will be considered a serious act of

misconduct subject to appropriate discipline up to and including discharge. Examples include but are not limited to:

- transferring the complainant against his or her will
- coworkers or supervisors ignoring the complainant
- spreading rumors and innuendos
- giving different work assignments
- sabotage of tools/materials or work
- withholding work related information

**[THE FOLLOWING PROCEDURES ARE INCORPORATED INTO VARIOUS RULES AND INTERNAL PROCESSES. EVERY CITY EMPLOYEE SHALL RECEIVE A COPY OF BOTH THE POLICY AND THE PROCEDURAL RULES.]**

#### *Complaint Procedure*

A. Complaints: Any employee or applicant for employment who:

- believes he or she is the subject of sexual harassment, or
- is aware of a sexually hostile or offensive work environment, or other sexual harassment, or
- believes he or she has been retaliated against for making a good faith complaint or report of sexual harassment, or for participating or aiding in an investigation of sexual harassment

should immediately report the incident to the Unit/Office of Sexual Harassment Prevention<sup>28</sup>.

---

<sup>28</sup>This office may be a unit or designated person located within centralized EEO office.



Employees may also report any incident to any supervisor or manager, Equal Employment Opportunity Specialist or Human Resources personnel. The formal complaint must be a statement by the employee specifying the facts which support the discriminatory charge.

B. Alternative Resolution: Whenever appropriate, mediation of a complaint is available through Office of Sexual Harassment Prevention. The Office may also provide trainings in sexual harassment, team building, or communication matters.

C. Time line: Complaints of sexual harassment must be filed within *one (1) year* of the alleged discriminatory action.

D. Reporting: Any supervisor, manager, Human Resources personnel or public official who:

- 1) receives a complaint about sexual harassment, or
- 2) is otherwise aware of, or learns of sexual harassment in the workplace

must **immediately** send notification to Department of Human Resources.

E. Investigation: The Unit/Office of Sexual Harassment Prevention will, in every incident, make a determination if a formal investigation is required or if further preventive measures or an alternative resolution is possible. The Unit/Office of Sexual Harassment Prevention will investigate all formal sexual harassment complaints. The investigation will begin **immediately** and will be completed within ninety (90) calendar days, unless written notification of an extension is required.

F. Confidentiality: To the extent possible, the reporting and investigation of all sexual harassment complaints will be kept confidential. The City and County of San Francisco cannot make an absolute guarantee that the information provided regarding a possible sexual harassment offense

will remain completely confidential. The City and County of San Francisco can assure individuals that it will keep the information, including complainant's identity, private to the greatest extent possible, taking into account the rights of the accused.

G. Discipline: Any employee who is found to have committed sexual harassment will be subject to appropriate discipline, up to and including termination. The severity of the disciplinary action shall be commensurate with the circumstances. Any formal investigation which results in a "for cause" finding of sexual harassment will be placed in the offending person's personnel file.

### *INFORMAL ACTIONS*

A. Confidential Counseling Services: If an individual prefers to handle the situation himself or herself with the assistance of a trained counselor, he or she may contact the San Francisco City and County Employee Assistance Program. *This counseling program offers confidential services including mediation.*

B. Anonymous: An individual may also file an anonymous report (**which is not a formal complaint**) with the Unit/Office of Sexual Harassment Prevention. When the office learns, from whatever source, of sexual harassment, the staff is authorized, **in the absence of a formal complaint**, to take any action deemed appropriate. These actions may include but are not limited to training, mediation, alternative resolution, assessment of workplace environment, team building, communication training, site visits or investigation.

C. Technical assistance: In addition the Unit/Office of Sexual Harassment Prevention, the Commission on the Status of Women is available to offer technical advice on all City and County policies, assistance with filing a complaint and referrals for complainants, supervisors and managers for additional resources to assist with the prevention and handling of sexual harassment incidents.

### *Other Complaint Filings*

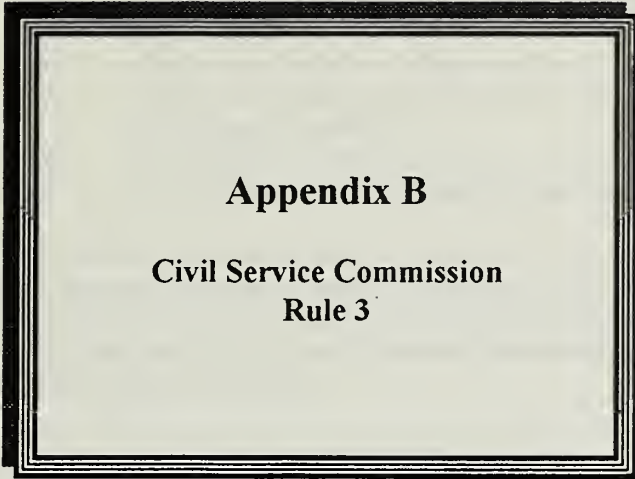
Nothing in this policy is intended to affect the right of any person to make a charge of discrimination at any state or federal agency with jurisdiction over such claims; raise a grievance under a collective bargaining agreement, or consult a private attorney.

**State Agency:** The Department of Fair Employment and Housing

**Federal Agency:** Equal Employment Opportunity Commission







## **Appendix B**

### **Civil Service Commission Rule 3**





## **PROPOSED NEW CIVIL SERVICE COMMISSION RULE 3: EQUAL EMPLOYMENT OPPORTUNITY**

**[The purpose of this draft is to assist with the implementation of the Plan of the Sexual Harassment Task Force. Recommended changes from the Plan have been inserted into the following documents:**

- *Sexual Harassment Policy for the City and County of San Francisco (Appendix A)*
- *Civil Service Rule Three (Appendix B)*
- *Procedures for the Investigation and Resolution of Sexual Harassment (Appendix C)*
- *Investigative Certification Standards (Appendix D)*
- *Sexual Harassment Administrative Code 16.9-25 (Appendix E)*

**Because these recommended changes are divided amongst the five above-mentioned documents, all five documents must be considered at one time for a complete picture of the total implementation Plan. The City Attorney advises that due to the new San Francisco Charter (July 1, 1996) placement of various sections may ultimately need to be transferred between the above-mentioned documents.]**

### **Section 3.01 Equal Employment Opportunity Policy-- 5/4/95 draft -no change**

It is the policy of the Civil Service Commission that all persons shall have equal opportunity in employment; (that selection of persons to positions in the City and County shall be made on the basis of merit). Vigorous enforcement of the laws against discrimination shall be carried out at every level of each department. Toward that end, all persons, regardless of race, religion, sex, national origin, ethnicity, age, disability, medical condition (cancer-related), political affiliation, sexual orientation, gender identity, ancestry, marital status, color, or other non-merit factors shall have equal access to employment and all terms, conditions, and privileges of employment within the City and County.

### **Section 3.02. Affirmative Action Policy--5/4/95 draft- no change**

It is the policy of the Civil Service Commission to maintain an affirmative action program to eradicate the effects of past discrimination and to achieve a qualified workforce that reflects the labor force availability of minorities and women in San Francisco.

### **Section 3.03. Affirmative Action Plan Requirement--5/4/95 draft - no change**

As required by the San Francisco Administrative Code, Section 16.9-24, each department shall annually prepare an affirmative action plan for submission to the Human Rights Commission, the Commission on the Status of Women, and the Civil Service Commission for approval. The Department of Human Resources shall annually prepare an analysis of the workforce and a citywide affirmative action plan. (*Vicki Clayton has asked Deputy City Attorney Mara Rosales to*

*review the proposed changes to the Civil Service Rules and advise the Rules Committee regarding any anticipated problems or proposed changes as they relate to Affirmative Action.)*

**Section 3.04. Language Diversity Policy--5/4/95 draft - no change**

It is the policy of the Civil Service Commission that an employee's use of a language other than English is not only an asset in the provision of public services but, with few exceptions, is a legally protected right.

**SECTION 3.05 PREVENTION OF SEXUAL HARASSMENT POLICY**

**(italicized = changes)**

It is the policy of the Civil Service Commission, as provided by Section 16.9-25 of the San Francisco Administrative Code, that sexual harassment of city employees and applicants for employment is prohibited *and will not be tolerated.*

**Section 3.06. Prohibition of Slurs Policy--5/4/95 draft - no change**

It is the policy of the City and County of San Francisco that each official, employee, and agent acting in official capacity, will treat all persons equally and respectfully, and will refrain from the willful or negligent use of slurs against any person on the basis of race, religion, sex, national origin, ethnicity, age, disability, medical condition (cancer-related), political affiliation, sexual orientation, gender identity, ancestry, marital status, or color.

**Section 3.07. Employment of Persons with Disabilities Policy--5/4/95 draft - no change**

In accordance with the Americans with Disabilities Act (ADA), it is the policy of the Civil Service Commission to provide equal access for individuals with disabilities in all areas of employment. No disabled person shall be denied employment or any other term, condition, or privilege of employment based upon disability or the need for a reasonable accommodation, so long as the accommodation does not result in an undue hardship on the operations of the department or the City and County of San Francisco.

**Section 3.08. Prohibition of Nepotism and Favoritism Policy--5/4/95 draft - no change**

*It is the policy of the Civil Service Commission that selection of persons to occupy positions covered by the civil service merit system of the City and County of San Francisco shall be determined by appropriate selection procedures without regard to domestic or familial relationships, friendship, partiality, preferential bias, or factors other than merit and fitness.*

**Section 3.09. Prohibition of Retaliation Policy--5/4/95 draft- no change**

It shall be a violation of this rule to discriminate against, retaliate against, or harass any employee or applicant because such employee or applicant has complained of or opposed any discriminatory practice prohibited under this rule or has made a complaint, testified, supplied evidence, assisted, or participated in any manner in any investigation, proceeding, or hearing under this rule.

**Section 3.10. Responsibility and Authority--(Changed strikeout as regards sexual harassment complaints)**

The Civil Service Commission, through this Rule, directs that the Human Resources Director shall have overall responsibility for the administration and implementation of this Rule. The Human Resources Director shall develop standardized procedures for investigating and resolving complaints of employment discrimination and sexual harassment which shall be submitted to and approved by the Civil Service Commission and thereafter incorporated into this Rule as if fully set forth. The decision of the Human Resources Director resolving such complaints of discrimination shall be enforced by every employee and officer ~~(unless the decision is appealed to the Civil Service Commission and reversed.)~~

**(formerly - SECTION 3.11 PROCEDURES. Now to be found within Section 3.10 Responsibility and Authority)--5/4/95 draft (changes = italicized proportion)**

A. Subject to approval by the Civil Service Commission, the Human Resources Director shall develop standardized procedures for investigating and resolving complaints of employment discrimination, sexual harassment, and prohibited nepotism and favoritism

(NEW) B. Such procedures shall provide that the decision *and recommendation* of the Human Resources Director shall be enforced by every employee and affirm and shall further provide that the Human Resources Director's decision is appealable to the Civil Service Commission within *ten (10)* business days of postmark date.



**[The Task Force eliminates appeals in sexual harassment cases. See text of plan under appeals for further clarification. ]**

B. Such procedures shall provide that the decision of the Human Resources Director shall be enforced by every employee and affirm ~~and shall further provide that the Human Resources Director's decision is appealable to the Civil Service Commission within 10/30 business days of postmark date.~~ ***(Committee to decide whether to use 10 or 30 days; using 10 days will require that the Procedures be changed while 30 days will require that the Rule be changed).***

C. Such procedures and any amendments to the procedures shall be subject to the approval of the Civil Service Commission and when so approved shall be deemed as included in this Rule.



## **Appendix C**

### **Procedures for the Investigation and Resolution of Sexual Harassment Complaints**



# PROCEDURES FOR THE INVESTIGATION AND RESOLUTION OF SEXUAL HARASSMENT COMPLAINTS

[The purpose of this draft is to assist with the implementation of the Plan of the Sexual Harassment Task Force. Recommended changes from the Plan have been inserted into the following documents:

- *Sexual Harassment Policy for the City and County of San Francisco (Appendix A)*
- *Civil Service Rule Three (Appendix B)*
- *Procedures for the Investigation and Resolution of Sexual Harassment (Appendix C)*
- *Investigative Certification Standards (Appendix D)*
- *Sexual Harassment Administrative Code 16.9-25 (Appendix E)*

Because these recommended changes are divided amongst the five above-mentioned documents, all five documents must be considered at one time for a complete picture of the total implementation Plan. The City Attorney advises that due to the new San Francisco Charter (July 1, 1996) placement of various sections may ultimately need to be transferred between the above-mentioned documents.]

## I. AUTHORITY

Under the authority granted to the Civil Service Commission contained in Charter Section 10.101 and Sec.10.103 the Civil Service Commission hereby prescribes and adopts these procedures which are incorporated into its Rules thereby having the force and effect of law.

## II. PURPOSE

The purpose of proceedings under this section is to expedite the resolution of sexual harassment complaints so as to ensure that complaints are resolved as quickly and as effectively as possible and to provide a timely and impartial process for the investigation of charges of sexual harassment, and to provide an appropriate remedy for the complainant and prompt, effective corrective action, when a determination is made that discrimination prohibited by these procedures or Rules has occurred.



### III. RESPONSIBILITY

The Human Resources Director is responsible for implementing and effecting these procedures and for establishing such administrative controls as may be necessary.

The Human Resources Director is responsible for the final disposition of each complaint of sexual harassment, including any recommended corrective action.

### IV. DEFINITIONS

For purposes of this procedure sexual harassment is defined as:

A. Any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

(2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting said individual; or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

B. Examples of behavior which may constitute sexual harassment include but are not limited to:

- Acts from male to female, female to male and between or among

individuals of the same sex which are sexual in nature and unwelcome; sexual harassment may be directed against a particular person, persons or group.

- Verbal conduct which is sexual in nature and unwelcome, e.g., epithets, jokes, comments or slurs, repeated requests for dates which are unwelcome.
- Nonverbal behavior which is sexual in nature and unwelcome, e.g., staring, leering, lewd gestures.
- Physical conduct which is sexual in nature and unwelcome, e.g., assault, sexual advances such as touching, patting or pinching, impeding or blocking movement or any physical interference with normal work or movement;
- Visuals which are sexual in nature and unwelcome, e.g., posters or signs, letters, poems, graffiti, faxes, cartoons or drawings, pictures, calendars, electronic mail and computer programs.
- Consensual romantic relationships between a supervisor/manager and a subordinate are *not* prohibited by this policy. They do, however, create a potential conflict of interest and are therefore discouraged.

C. Retaliation: Retaliation against any employee or applicant for employment for having made a good faith complaint or report of sexual harassment, or participating or aiding in an investigation of sexual harassment is strictly prohibited. The retaliation will be considered a serious act of misconduct subject to appropriate discipline up to and including discharge.

Examples include but are not limited to:

- transferring the complainant or witness against his or her will
- coworkers or supervisors ignoring the complainant or witness
- spreading rumors and innuendos
- giving different work assignments
- sabotage of tools/materials or work
- withholding work related information

## V. COMPLAINT PROCEDURES

Filing a complaint:

A. Any employee or applicant for employment who:

- believes he or she is the subject of sexual harassment, or
- is aware of a sexually hostile or offensive work environment, or other sexual harassment, or
- believes he or she has been retaliated against for making a good faith complaint or report of sexual harassment, or for participating or aiding in an investigation of sexual harassment

should immediately report the incident to any supervisor or manager, Equal Employment Opportunity Specialist or Human Resources personnel. A complaint of sexual harassment under these procedures shall consist of a statement by the employee or applicant specifying those facts and reasons which support the discriminatory charge.

B. Complaints of sexual harassment should be brought to the attention of management as soon as possible after the incident or incidents have occurred. All complaints must be filed, as specified above, within one (1) year of the alleged discriminatory action.

C. Any supervisor, manager, human resources personnel or public official who receives a complaint about sexual harassment must **immediately** notify the Department of Human

Resources.

D. Nothing in the Rules of the Civil Service Commission or in these Procedures precludes an individual's right to file the same or similar complaint, or with any state or federal regulatory agency, or to litigate for relief. Doing so does not relieve the City and County from its obligation to implement procedures and conduct investigations, however.

## VI. INVESTIGATIVE PROCEDURE

The following procedures shall be used to investigate all sexual harassment complaints:

A. Upon notification of a complaint of sexual harassment the Human Resources Director shall direct that complaints are resolved in the shortest time possible. The Director, or his or her designee, shall immediately assign a certified investigator (*see Certification Standards in Appendix - also in the case of an investigation of a peace officer additional certification may be necessary*) to begin investigating of the complaint.

B. The investigator shall make an attempt to resolve the complaint through an alternative resolution method, whenever appropriate. The ability to mediate or otherwise settle the complaint shall be available throughout the investigation. Such attempts shall not imply any determination or concession by any party with regard to the merit of the charges.

C. Investigations may include but are not be limited to interviews with the complainant, accused, co-workers and other witnesses, supervisors/managers of both the complainant and the alleged accused, a review of both the complainant and accused's personnel files and any other documentary evidence or departmental information pertaining to the complaint and such other activity as may be necessary to obtain information pertinent to the specifics of the charges.



D. The investigation will be completed within ninety (90) calendar days. Exceptions to the time line will only be granted when the request for an extension is in writing and filed with the Director of Human Resources and a copy is sent to the complainant, the department involved, and to the alleged accused. The request shall state the reason for the delay. The Director of Human Resources may grant an extension for up to thirty (30) days.

E. To the extent possible the reporting and investigation of all sexual harassment complaints will be kept confidential. The City and County of San Francisco cannot make an absolute guarantee that the information provided regarding a possible sexual harassment offense will remain completely confidential. The City and County of San Francisco can assure individuals that it will keep the information, including complainant's identity, private to the greatest extent possible, taking into account the rights of the accused.

F. Upon completion of the investigation, the investigator shall prepare a written report of findings of fact supported by the investigation. This report will be given to the Human Resources Director.

## **VII. ACTION BY THE HUMAN RESOURCES DIRECTOR**

Final Determination: The Human Resources Director within ten (10) working days of receiving the investigator's report, issue a final written determination as to "cause" or "no cause" for the alleged discriminatory behavior.

A. If the determination is made "for cause" the director shall include his or her recommendation for corrective action (up to and including dismissal) and any additional actions to be taken to make the complainant whole (including but not limited to reinstatement of all benefits, seniority and back pay). A statement of the final determination of findings and any recommended corrective action shall be made a part of

the accused's personnel file and shall be included in the accused's performance evaluation.

B. If the determination is made for "no cause" but the Director determines that a human resource problem exists he or she may also recommend to the department involved any action that he or she deems appropriate. These actions may include but are not limited to training, mediation, assessment of workplace environment, team building or communication training.

C. Notice of the written determination shall be sent to the complainant, the department involved, and the accused informing each of them as to the final determination of "cause" or "no cause" and the action to be taken. The Human Resource Director may limit the information conveyed regarding corrective action if he or she deems it necessary to protect the reasonable expectation of the privacy of witnesses and/or the parties involved. The final determination shall forthwith be enforced by every employee and officer.

## **VII. REPORTING REQUIREMENTS**

A. The Human Resources Director shall provide on a quarterly basis to the Commission on the Status of Women a written report on the number of sexual harassment complaints filed and the departments that were involved. The report shall also include information on the dispositions of complaints that are concluded and the status of complaints that are pending. The reports shall not include names or other identifying information regarding the parties or the alleged harassers.

B. The Human Resources Department shall maintain all written records of formal complaints and investigations and final determinations. These records shall be considered "confidential" for purposes of access and will be maintained in a secure location. Other City and County Officials may have access to the formal complaint records if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.

C. The Human Resources Director shall report annually to the Mayor, the Board of Supervisors, the Human Rights Commission, and the Commission on the Status of Women on the number of claims of sexual harassment filed, including information on the number of claims pending and the departments in which claims have been filed. The reports shall not include names or other identifying information regarding the parties or the alleged harassers.

## **IX. ADOPTION AND AMENDMENTS TO PROCEDURES**

The Human Resources Director may amend these procedures, subject to the approval of the Civil Service Commission. Any such amendment shall be posted for a minimum of seven (7) calendar days prior to adoption. Upon adoption, changes shall be in effect. No change in the procedures shall affect a case which is pending resolution.



## **Appendix D**

### **Investigator Certification Standards**





## INVESTIGATOR CERTIFICATION STANDARDS

[The purpose of this draft is to assist with the implementation of the Plan of the Sexual Harassment Task Force. Recommended changes from the Plan have been inserted into the following documents:

- *Sexual Harassment Policy for the City and County of San Francisco (Appendix A)*
- *Civil Service Rule Three (Appendix B)*
- *Procedures for the Investigation and Resolution of Sexual Harassment (Appendix C)*
- *Investigative Certification Standards (Appendix D)*
- *Sexual Harassment Administrative Code 16.9-25 (Appendix E)*

Because these recommended changes are divided amongst the five above-mentioned documents, all five documents must be considered at one time for a complete picture of the total implementation Plan. The City Attorney advises that due to the new San Francisco Charter (July 1, 1996) placement of various sections may ultimately need to be transferred between the above-mentioned documents.]

- ▶ when an employee is qualified to perform the duties and responsibilities of a 1233 Affirmative Action Specialist<sup>29</sup> (e.g., an employee with prior experience or is performing those duties), or any person who meets the minimum qualifications of a 1233 or a 1231 Assistant Manager (for Affirmative Action) (*minimum qualifications of 1233 position*); and
- ▶ employee has a minimum of 100 hours of supervised investigative experience. (Supervision by a certified investigator with at least three years of investigation experience.)
- ▶ employee passes an investigation exam
- ▶ the employee has participated in the 40 hours of educational training to conduct discrimination investigations. (Training may mean attending an external employment discrimination training session, or undergoing a training session conducted by an EEO unit

---

<sup>29</sup> The Task Force realizes that these qualifications may change and that this draft is for use in promulgating a set of criteria based on the job qualifications of these Civil Service classifications as of April, 1996.

on investigations which includes a minimum of two hours each in the following areas ADA, Race, Gender Discrimination, Sex and Sexual Harassment, Age, Retaliation and mediation or alternative dispute resolution).

- ▶ employee has knowledge of intergroup relations and problems of protected groups such as ethnic minorities, women, disability, senior citizens, etc.; investigation and interviewing techniques; current labor and employment law, methods of compiling and presenting data, mediation as alternative dispute resolution and Federal civil rights statutes; California Fair Employment and Housing laws and Department of Human Resources and Civil Service Rules, policies and procedures and rules of evidence.
- ▶ employee has ability to interpret and apply civil rights laws and rules and regulations of the City and County of San Francisco; analyze data; speak and write reports effectively; deal tactfully, creatively and effectively with sensitive problems of civil rights law enforcement; analyze situations accurately and take effective action; establish and maintain cooperative relationships with those individuals contacted in the work environment and conduct difficult and involved investigations. Includes the ability to recognize and differentiate standards and burdens of proof, to analyze and weigh evidence, interpret and apply laws/rules to factual situations and connect and see overall vision.

### **Interim Step**

***[It will take time to implement these standards and to hire individuals who can meet these standards. The Task Force recommends the following as an interim step.]***

A blanketing in of current personnel or new hires who have performed 2000 hours or more of EEO investigations (including an investigation in each of the following areas ADA, Race, Gender Discrimination and Sexual Harassment, Age and Retaliation) and meet the last three certification standards, the approval of Human Resources Director and the City Attorney's Investigative Unit.

## **Appendix E**

### **Sexual Harassment Code**

**(Administrative Code Section 16.9-25)**





## **SEXUAL HARASSMENT CODE**

### **San Francisco Administrative Code Section 16.9-25**

[The purpose of this draft is to assist with the implementation of the Plan of the Sexual Harassment Task Force. Recommended changes from the Plan have been inserted into the following documents:

- *Sexual Harassment Policy for the City and County of San Francisco (Appendix A)*
- *Civil Service Rule Three (Appendix B)*
- *Procedures for the Investigation and Resolution of Sexual Harassment (Appendix C)*
- *Investigative Certification Standards (Appendix D)*
- *Sexual Harassment Administrative Code 16.9-25 (Appendix E)*

Because these recommended changes are divided amongst the five above-mentioned documents, all five documents must be considered at one time for a complete picture of the total implementation Plan. The City Attorney advises that due to the new San Francisco Charter (July 1, 1996) placement of various sections may ultimately need to be transferred between the above-mentioned documents.]

#### **SEC. 16.9-25. PROHIBITING SEXUAL HARASSMENT OF CITY EMPLOYEES; ESTABLISHING A COMPLAINT PROCEDURE AND UNIT/OFFICE OF SEXUAL HARASSMENT PREVENTION; PROVIDING FOR REMEDIES FOR PERSONS WHO HAVE BEEN FOUND TO BE TARGETS OF SEXUAL HARASSMENT INCLUDING THE SETTING ASIDE OF DISCIPLINARY ACTION AGAINST THESE PERSONS; REQUIRING THE IMPOSITION OF DISCIPLINARY ACTION AGAINST PERSONS VIOLATING THIS SECTION; REQUIRING DISTRIBUTION OF THE POLICY; INTERPRETATION.**

(a) Sexual harassment of a City employee or applicant for employment by a City official or employee is prohibited.

(b) Behavior which constitutes sexual harassment by City officials and employees includes, but is not limited to:

- (1) Verbal harassment, e.g., epithets, derogatory comments or slurs;
- (2) Physical harassment, e.g., assault, impeding or blocking movement, gestures, or any physical interference with normal work or movement;
- (3) Visual forms of harassment, e.g., derogatory posters, letters, poems, graffiti, cartoons or drawings; or
- (4) Requests for sexual favors or unwanted sexual advances; when the foregoing behavior unreasonably interferes with work performance, creates an intimidating, hostile or offensive working environment, influences or affects the career, salary, working conditions, job, or other aspects of career development of an employee or prospective employees, or is an explicit or implicit term or condition of employment.

© For the purpose of this Section, the following behavior by City officials and supervisory employees also constitutes sexual harassment:

- (1) Failing to take corrective action when the officials or supervisory employees know, or reasonably should know, that an employee in the line of supervision of the officials or supervisory employees is being subjected to prohibited sexual harassment on the job by anyone; or
- (2) Retaliation against an employee or applicant for employment who complained of sexual harassment, or who testified on behalf of one who made a complaint, or who assisted or participated in any manner on behalf of a complainant in an investigation, proceeding or hearing conducted under this Section.

*A Unit/Office of Sexual Harassment Prevention shall be created under the Department of Human Resources in order to maintain a sexual harassment free workplace environment. The office shall emphasis prevention and alternative resolutions whenever possible and shall also handle all formal investigations for internal complaints on sexual harassment pursuant to Civil Service Commission Rule Three (3). The office shall also assist all supervisors and managers with the handling of informal or alternative resolutions of reports of sexual harassment and shall keep records of all reports of sexual harassment as described below.*

*(d) Any supervisor, manager, human resources personnel or public official who receives a complaint about sexual harassment, or who is otherwise aware of, or learns of sexual harassment in the workplace, whether or not anyone complains about such harassment, must immediately send notification (identified as "confidential") to:*

*Unit/Office of Sexual Harassment Prevention (to be sent by confidential fax) and,*

*1) The notification may be in writing by the person who received the information regarding a sexual harassment situation and will be marked "confidential." The notification will contain the name, department, and phone number of the complainant (if known), the name, department, and phone number of the person giving the notification, and the date.*

*2) Any city official, supervisor or manager who is aware or reasonably should be aware of sexually harassing conduct by another employee (whether or not anyone complains about such harassment) but fails to report that conduct as required in this policy, may be subject to discipline.*

*3) Within five working days after receiving notice of a complaint, the Civil Service Commission Unit/Office of Sexual Harassment Prevention shall report that complaint to the Commission on the Status of Women. The Civil Service Commission Unit/Office of Sexual Harassment Prevention's reports to the Commission on the Status of Women shall not contain information identifying the*



parties involved in the events giving rise to the complaint, but shall include all other relevant details. The ~~Civil Service Commission Unit/Office of Sexual Harassment Prevention~~ shall report the outcome of each complaint to the Commission on the Status of Women promptly after the complaint is resolved. The ~~Civil Service Commission Unit/Office of Sexual Harassment Prevention~~ shall annually report to the Board of Supervisors, the Mayor, the Human Rights Commission and the Commission on the Status of Women the number of claims filed, the number of claims pending, the departments in which claims have been filed and such other information the ~~Civil Service Commission Unit/Office of Sexual Harassment Prevention~~ determines necessary regarding problems in enforcement under this section.

(e) The *sexual harassment* discrimination complaint procedure established by the Civil Service Commission (or centralized EEO unit) pursuant to ~~Section 3.661(c) of the Charter Rule three (3)~~ shall be used to review and resolve allegations of sexual harassment. The determination reached under *these* procedures shall be final and shall forthwith be enforced by every employee and appointing officer.

(f) During any hearing on a complaint of sexual harassment, evidence of the sexual conduct of the complainant offered to attack the credibility of the complainant shall be permitted only as provided in the Civil Service Commission Hearing Procedures and with the express approval of the Civil Service Hearing Panel<sup>30</sup>.

(g) Upon a finding that a City official or employee has engaged in prohibited sexual harassment as defined herein against a City employee or applicant for employment, the City official or employee shall receive disciplinary action up to and including demotion or dismissal in accordance with the applicable provisions in the Charter. A statement of those findings, of the disciplinary action taken, and of any final determination of subsequent acts of sexual harassment shall be made a part of the employee's personnel file and shall be included in the employee's performance evaluation.

(h) Whenever a final determination is made that an action taken against a City employee, such as but not limited to, a reassignment, transfer, termination, disciplinary action or demotion, constitutes sexual harassment, the responsible appointing officer in the subject department shall set aside that action and provide a make whole remedy to the complainant including but not limited to reinstatement of all benefits, seniority and back pay. After a final determination is made that sexual harassment did occur, the appointing officer in the subject department shall provide a written notification of compliance with the requirements of this Section to the ~~General Manager, Personnel Unit/Office of Sexual~~

---

<sup>30</sup> This language is currently in the administrative code. Its meaning and reference is not entirely clear. The attempt to limit evidence regarding a complainant's past sexual behavior, however, is important and should be maintained.



*Harassment Prevention (or centralized EEO unit).*

(I) Prevention is the best tool for the elimination of sexual harassment. All City and County commissions, departments, boards and agencies shall provide to each of their supervisory employees a copy of this ordinance with a written explanation of the Civil Service procedure for filing a complaint for violation thereof. Each appointing officer shall require his or her supervisory personnel to instruct all employees under their supervision of the contents of this ordinance and of the Civil Service procedures for filing a complaint for violation thereof, and shall adopt ~~a specific departmental~~ *one standard sexual harassment* policy delineating that sexual harassment will not be tolerated and shall provide to or acquire for its supervisory personnel a training program designed to educate and thereby prevent sexual harassment.

(j) This policy shall be construed in a manner consistent with the right of free speech, association and privacy.

(k) The offices of the Human Rights Commission and the Commission on the Status of Women shall be available to provide assistance upon request to any employee, applicant for employment, or City department wherever appropriate.

(l) Nothing in this Section is intended to limit the power of a department head to discipline a department employee found guilty or responsible for sexual harassment or retaliation.  
(Amended by Ord. 213-86, App. 6/13/86; Ord. 271-89, App. 7/28/89)

(m) *Consensual romantic relationships between a supervisor/manager and a subordinate are not prohibited by this section. They may, in some circumstance, be considered sexual harassment. Therefore, any supervisor/manager or public official who has such a relationship with another city employee should consider the possibility of having one of the parties transferred voluntarily.*

(n) *Any employee or applicant for employment who:*

- *believes he or she is the subject of sexual harassment, or*
- *is aware of a sexually hostile or offensive work environment, or other sexual harassment, or*
- *believes he or she has been retaliated against for making a good faith complaint or report of sexual harassment, or for participating or aiding in an investigation of sexual harassment*

*should immediately report the incident to the Unit/Office of Sexual Harassment Prevention. Employees may also report any incident to any supervisor or manager, Equal Employment Opportunity Specialist or Human Resources personnel. The formal complaint must be a statement by the employee specifying the facts which support the discriminatory charge.*

(o) *Complaints of sexual harassment must be filed within one (1) year of the alleged discriminatory action.*

(p) *The Unit/Office of Sexual Harassment Prevention will, in every incident, make a determination if a formal investigation is required or if further preventive measures or an alternative resolution is possible. The Unit/Office of Sexual Harassment Prevention will investigate all formal sexual harassment complaints. The investigation will begin immediately and will be completed within ninety (90) calendar days, unless written notification of an extension is required.*

(q) *To the extent possible the reporting and investigation of all sexual harassment complaints will be kept confidential. The City and County of San Francisco cannot make an absolute guarantee that the information provided regarding a possible sexual harassment offense will remain completely confidential. The City and County of San Francisco can assure individuals that it will keep the information, including complainants' identity, private to the greatest extent possible, taking into account the rights of the accused.*

(r) *An individual may also file an anonymous report (which is not a formal complaint) with the Unit/Office of Sexual Harassment Prevention. When the office learns, from whatever source, of sexual harassment matter, the office is authorized, in the absence of a formal complaint, to take any action deemed appropriate. These actions may include but are not limited to supervisory training, alternative resolution, assessment of workplace environment, team building, communication training, site visits or a full investigation.*

(s) *Nothing in this policy is intended to affect the right of any person to make a charge of discrimination at any state or federal agency with jurisdiction over such claims, raise a grievance under a collective bargaining agreement, or consult a private attorney.*

#### *Sexual Harassment Information Tracking System*

(t) *The unit/Office of Sexual Harassment Prevention will maintain records of all reports and complaints of sexual harassment. Two types of files will be maintained:*

*1) Formal Complaint File. A formal complaint file will be maintained by the Office of Sexual Harassment Prevention. This file will contain: the name of the complainant, the department involved, complainants' title/classification, gender, ethnicity, work location, basis of complaint, the name of the alleged party or parties involved, those parties' gender, ethnicity, title/classification, work location, the hours spent on resolving the complaint, the status of the complaints that are pending, resolution (if any), and departmental action taken, all formal review documents, such as the complaint form, the investigation report, any record of appeal, the result of the appeal, and a record of correspondence notifying the complainant, the department involved and the alleged harasser of actions taken, recommendations and the progress of the complaint. This*



information will be marked "confidential."

2) Report Files. Files will be maintained by the unit/Office of Sexual Harassment Prevention on all reports of sexual harassment, whether they result in a formal investigation or not. These files will be maintained by the department and section involved and will include a summary of the report and the resolution of the problem, including any education/training the individuals or other department personnel received as a result of the report. This information will be marked "confidential."

3) Access to Records. The unit/Office of Sexual Harassment Prevention records are considered "confidential" for purposes of access and will be maintained in a secure location. Other City and County Officials may have access to the formal complaint records if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired. Access may also be given in response to a subpoena, court order or other compulsory legal processes. Before disclosure, The unit/Office of Sexual Harassment Prevention should reasonably attempt to notify the individual to whom the record pertains, if the notification is not prohibited by law.

4) Promotion/Transfer Tracking: The personnel file must be reviewed by the Appointing Officer to aid in decisions regarding promotions, transfers or hiring.

5) Records Retention: All the Office of Sexual Harassment Prevention files will be retained until five years after departure of the accused; provided there has been no further report or complaint concerning the conduct of the alleged harasser for five (5) continuous years, from the date of the last report or complaint, the file will be destroyed.

6) Commission on the Status of Women: On a quarterly basis, the following sexual harassment complaint information shall be given to the Commission on the Status of Women: the department involved, complainant's title/classification, gender, ethnicity, work location, basis of complaint, the parties' gender, ethnicity, title/classification, work location, the hours spent on resolving the complaint by all relevant employees, the status of the complaints that are pending, resolution (if any), and departmental action taken, without identifying names of any of the parties.

(v) Commission on the Status of Women: Individuals who come to the Commission on the Status of Women for assistance and technical assistance and information on how to handle a sexual harassment situation records' will be confidential.



## **Appendix F**

### **Training Considerations and Model**





## **TRAINING CONSIDERATIONS AND MODEL**

### **I. WHO IS TRAINED:**

Line staff, supervisors/managers/department heads, investigators, individuals responsible for dispute resolution taken seriously.

### **II. ATTENDANCE:**

Mandatory

### **III. FREQUENCY OF TRAINING**

After initial training, follow-up training be provided annually.

### **IV. DURATION OF TRAINING**

Three hour training sessions for employees; 4 hour training sessions for managers and supervisors; full day training session (without distractions) for department heads; additional full day training session for investigators or persons involved in dispute resolution.

### **V. QUALITY CONTROL/CONSISTENCY**

Develop uniform training manual detailing training content, methods, models with adaptations for department needs, special issues, standardized training (with defined options for tailoring to particular departments) helps to ensure uniformity and consistency of information, provide train-the-trainer sessions for all trainers, provide extensive training for all persons involved in investigation of claims or dispute resolution, develop and use evaluation instrument to be completed by each training participant, confidential survey of staff to see if sexual harassment stopped - six months following complaint.

### **VI. PROPOSED TRAINING GOALS**

- work environment free of sexual harassment
- elimination of gender bias
- respect
- dignity
- reduce costs of sexual harassment (human, productivity, financial)
- reduce employer liability
- team building

## **VII. PROPOSED TRAINING OBJECTIVES**

- define what harassment is, is not
- clarify standards for appropriate workplace behavior
- review policy & procedures
- address common perception differences, misperceptions, myths
- explain legal issues
- address questions & concerns
- provide forum for discussion
- encourage direct communication
- encourage ongoing communication
- encourage appropriate responses
- skill building
- communicate management support
- heal the workplace
- explain consequences of harassment - workplace disruption, emotional impact to victim, discipline of harasser

## **VIII. PROPOSED TRAINING APPROACH**

- non-blaming
- straight forward/direct
- educational/informational
- practical
- legal
- understandable
- accessible
- credible
- interesting

## **IX. PROPOSED FORMAT/S**

In the recent training put on by Mayor Brown and the City Attorney's office for 500 top management the Mayor requested role plays. There were too many people to have each person participate in a role plays. The City Attorney's office, however, did a role play demonstration for both the correct and incorrect way to handle a sexual harassment matter. These types of interactive training devices (versus a lecture) are always recommended as a way for participants to learn a new skill.

- interactive
- small groups
- group participation in exercises
- multimedia
- introduced by leadership
- role-plays

- demonstrations

#### **X. PROPOSED CORE CONTENT (line staff and managers/supervisors)**

- city policy
- legal issues
- definitions
- examples
- perception differences/misperceptions/myths
- behavioral guidelines
- skill building
- healing work environment
- reporting process and avenues
- impact of sexual harassment
- employee roles and responsibilities
- management roles and responsibilities
- confidentiality
- retaliation
- favoritism
- conflicts of interest
- dating co-workers

#### **XII. MANAGEMENT TRAINING INCLUDES ABOVE CORE CONTENT PLUS:**

- creating harassment-free work environment
- receiving complaints
- responding to inappropriate behaviors
- role-modeling
- problem-solving situations
- basic investigation
- formal vs. informal
- dealing with retaliations or perceived retaliation
- professional conduct

#### **XIII. PROPOSED TRAINING MODELS**

- individual
- groups
- live trainer/s
- video-based
- interactive computer program
- department-specific
- interdepartmental





## **Appendix G**

**Commission on the Status  
of Women**



## COMMISSION ON THE STATUS OF WOMEN

### *What will the Commission on the Status of Women (COSW) do in the area of Sexual Harassment?*

The Commission on the Status of Women has been the driving force behind the work of the study on sexual harassment and the work of the Task Force. Its role has always been one of advocacy on behalf of women throughout San Francisco and specifically of female employees in the City and County of San Francisco.

#### *Centralization of Equal Employment Opportunity Offices*

The Commission on the Status of Women will assist and work with a team or new EEO Task Force to look at the complete centralization of all equal employment opportunity matters. COSW will also continue to meet with other agencies that are involved with the monitoring and investigation of sexual harassment, such as the Human Rights Commission and Ethics Commission, to develop policies for elected officials and a centralized complaint tracking system for City and County of San Francisco contractors for a sexual harassment free work environment.

#### *Monitoring*

The Commission on the Status of Women's primary role will continue to monitor the implementation of all the recommendations outlined in this plan. Specifically, the Commission on the Status of Women will continue to monitor the investigations, both formal and informal, and all training in the area of sexual harassment. The Commission on the Status of Women staff will monitor the implementation of the unit/Office of Sexual Harassment Prevention, investigations, informal resolutions, mediation programs and the tracking system. The Commission on the Status of Women will follow all reports of sexual harassment to prevent the escalation of problems as they arise.

#### *Advocacy*

The Commission on the Status of Women will continue to advise individual complainants (male and female) as to their rights and obligations when faced with a sexual harassment problem. The advice might contain various avenues for redress as well as possible solutions to the problem. The Commission on the Status of Women staff is available to assist with alternative solutions.

#### *Training*

The Commission on the Status of Women will be part of the initial phase of the sexual harassment trainings which will consist of designing the training model, train-the-trainer model and revising the core curriculum. Commission on the Status of Women representatives will be available to assist with the initial phase of the training to all departments. The Commission on the Status of Women will also make its training resources available to the members of the private sector,



specifically those in the non-for-profit sector who are in dire need of assistance.

#### *Technical Assistance*

Commission on the Status of Women staff will continue to give technical assistance to managers, supervisors, human resources staff, educators and others in all phases of a sexual harassment prevention and solutions. The Commission on the Status of Women will act as an additional resource of city managers and supervisors in prevention to sexual harassment problems.

#### *Public Education*

The Commission on the Status of Women will continue to work with SF Unified School District to develop and implement a core curriculum for all school age children that will teach basic issues of respect and how to study in a sexual harassment-free environment. The Commission on the Status of Women will continue to give presentations on sexual harassment to the public.

#### *Public Awareness Campaign*

Each year, the Commission on the Status of Women will initiate a public awareness campaign to keep the issue of sexual harassment alive in the public mind as all work standards continue to evolve in our changing society.

#### *Counseling*

The Commission on the Status of Women will continue to work with employee assistance programs, health insurers and counselors to establish more avenues of referrals and support groups for individuals who experience sexual harassment.

#### *Resources & Materials*

The Commission on the Status of Women staff will keep a record of sexual harassment resources and make this information available to the public. The Commission on the Status of Women will continue to distribute its sexual harassment free booklet, update (as necessary) and translate into different languages.



## **Appendix H**

### **Practical Guidelines**



# Practical Guidelines to Maintain a Sexual Harassment-Free Work Environment

*by the Commission on the Status of Women &  
the Sexual Harassment Task Force, February 1996*

<b>I. INTRODUCTION</b>	Page 2
<b>II. FREQUENTLY ASKED QUESTIONS</b>	Page 2
<i>Q: Why is a sexual harassment policy necessary?</i>	Page 2
<i>Q: What are some common myths about sexual harassment?</i>	Page 3
<i>Q: What are some signs that an employee may have been subject to sexual harassment?</i>	Page 4
<i>Q: What can I do to prevent sexual harassment in my workplace?</i>	Page 5
<i>Q: What should I do to help the complaining employee?</i>	Page 5
<i>Q: Can or should I protect the privacy of the complainant and/or alleged harasser?</i>	Page 6
<i>Q: Since I can't guarantee confidentiality...where can I send someone who simply wants to talk things over?</i>	Page 6
<i>Q: What should I do if an employee is being sexually harassed by the public, clients, or vendors?</i>	Page 6
<i>Q: Can consensual sexual relations between a supervisor and his/her subordinate be considered sexual harassment?</i>	Page 7
<i>Q: What records should I keep?</i>	Page 7
<b>III. QUESTIONS THAT EMPLOYEES MAY ASK YOU WITH SOME SUGGESTED ANSWERS:</b>	Page 7
<i>Q: Can I compliment someone?</i>	Page 7
<i>Q: I'm not sure if he or she really means "maybe" or if he or she really means "no." What am I supposed to do?</i>	Page 8
<b>IV. COMMENTS OFTEN MADE ABOUT SEXUAL HARASSMENT</b>	Page 8
<i>S/he never told me s/he didn't like my comment (gesture, hug, etc.).</i>	Page 8
<i>He or she just can't take a joke.</i>	Page 9



## I. INTRODUCTION

Sexual harassment is a problem that affects San Francisco city employees. In a study conducted by Sharon Aurora in 1992<sup>31</sup> of female and male blue-collar city employees and presented to the Commission on the Status of Women (COSW), almost 70% of the female respondents and approximately 10% of the male respondents stated that they had experienced sexual harassment on the job.

A Recent study indicates that sexual harassment is pervasive, especially amongst coworkers but that only 6% of the individuals who experience sexual harassment file a formal complaint.<sup>32</sup> The very real fear of retaliation or being labeled a trouble maker keeps many individuals from reporting an incident and the fear of offending the harasser, who is either a boss or a colleague, keeps the great majority of both men and women from directly confronting the harasser.

This handout is written to give practical guidance about what managers and supervisors can do to prevent sexual harassment in the workplace. It is not a legal document and does not attempt to give legal advice.

## II. FREQUENTLY ASKED QUESTIONS

*Q: Why is a sexual harassment policy necessary?*

A: Sexual harassment is a problem that affects all of us at the workplace when it occurs. Many individuals who experience sexual harassment suffer physically and psychologically from the harassment. Many are forced to quit their jobs or take sick leave to escape from the harassment. Not only is the person who experiences sexual harassment harmed, but all of his or her coworkers are harmed either by the pervasive feeling that one cannot get ahead in the workplace without giving sexual favors or by the creation of an environment where coworkers are forced to tolerate offensive conduct. The recent U.S. Merit Protection Board<sup>33</sup> study estimated that it costs \$80 per employee per year in lost productivity time alone.

---

<sup>31</sup>The Pervasiveness of the Sexual Harassment of Women in Blue-Collar Jobs in the City of San Francisco, and the Differing Perceptions Between Men and Women as to What Behaviors Actually Constitute Sexual Harassment, by Sharon Aurora, June, 1992.

<sup>32</sup> US Merit Protection Board, October 1995.

<sup>33</sup> Ibid.

***Q: What are some common myths about sexual harassment?***

A: Myths about sexual harassment are based on prevailing cultural attitudes and stereotypes about sex and sexuality and other factors such as age, race, sexual orientation and disability. Many myths about sexual harassment deny the harmful nature of its conduct. They shift the blame to the person complaining and obscure the motivation of the harasser, which is to achieve power and control over the person harassed.

**MYTH:** It's no big deal if a person is harassed; it's all done in "good fun."

**REALITY:** Sexual harassment is abusive regardless of the intent of the harasser. By its very definition the behavior is "unwanted." It is not done in jest or "good fun'." The harassment can still intimidate and hurt others. All people have a right to be treated with respect, decency and consideration.

**MYTH:** Sexual harassment only occurs when there has been physical contact.

**REALITY:** Sexual harassment may be more subtle and less obvious than physical contact. It may include verbal (such as jokes, comments), nonverbal (such as gestures, leering) and visual behavior (such as sexually explicit posters).

**MYTH:** If you ignore sexual harassment, it will stop.

**REALITY:** Ignoring sexual harassment usually will not stop it. To the contrary, ignoring such behavior may be misconstrued as a sign of encouragement or tacit consent. To stop harassment, individuals report that when they directly tell the harasser to stop, the harassment often, but not always, ends.

**MYTH:** Some people just interact in a physical way and are accustomed to touching others; nothing is meant by this.

**REALITY:** Family and social interactions differ from individual to individual, community to community, and ethnic and racial group to ethnic and racial group. However, unwanted and unwelcome physical gestures such as hugging, pinching, or brushing up against a person's body may be forms of sexual harassment.

**MYTH:** Only women are sexually harassed.

**REALITY:** Both men and women may be targets or perpetrators of sexual harassment. Also, women can harass other women and men can harass other men. Sexual harassment occurs regardless of the sexuality of either the harasser or the harassed.

**MYTH.:** People who dress in a sexually attractive manner are asking for sexual comments.

**REALITY:** A person's clothes are never an excuse for unwanted sexual comments or action.

**MYTH:** There is nothing that can be done about sexual harassment.

**REALITY:** **On the contrary**, there are many steps that can be taken to prevent sexual harassment, and to respond appropriately when it does occur. Strong policies and effective procedures articulated by the head of an organization or institution that are communicated to and understood by all employees are critical components of a prevention strategy. This handout is part of the City and County's effort for all employees to have a more complete understanding of the issues involved in sexual harassment.

***Q. What are some signs that an employee may have been subject to sexual harassment?***

A: The following list of questions is helpful in identifying sexual harassment. Each particular situation will depend on the totality of the circumstances.<sup>34</sup>

- Have they been subjected to unwanted sexual comments, jokes, innuendoes or gestures?
- Have they been pinched, patted, or touched in a sexually offensive manner without their consent?
- Has anyone offered them promises of a promotion if they perform a sexual favor?
- Have they been considered humorless because they don't laugh at sexual jokes?
- Have they been called "baby," "sexy," "honey," etc., and made to feel uncomfortable?
- Have they received unwelcome, offensive telephone calls at home or at work?
- Have they been exposed to sexually suggestive pictures or pin-ups at work?
- Have they personally witnessed the sexual harassment of others in their immediate work environment?
- If they have complained about being sexually harassed, have they been involuntarily transferred to another location or otherwise treated in a fashion that may be considered retaliatory?
- Have they experienced any notable changes in their work environment due to their refusal to comply with a harasser's sexual demands?
- Has their refusal to comply with the sexual harasser's demands resulted in racist

---

<sup>34</sup> Adapted from How To Create A Workplace Free of Sexual Harassment: Employee & Employer Handbook on Sexual Harassment, Commission on the Status of Women, 1993.



- remarks or discrimination based on race, ethnicity or sexual orientation?
- Have they been sexually taunted because of actual or perceived sexual orientation?

**Q:** *What can I do to prevent sexual harassment in my workplace?*

- A:**
- Read and understand the City's Sexual Harassment Policy.
  - Understand what behavior constitutes sexual harassment.
  - Conduct ongoing education for your employees about what is sexual harassment and make sure that they understand the sexual harassment policy and how to report sexual harassment.
  - Monitor the conduct and environment of the workplace.
  - Encourage comments regarding the work environment, including problems regarding sexual harassment.
  - Let your employees know that you will not tolerate sexual harassment at the workplace and demonstrate your commitment "to zero-tolerance" by taking immediate action, when appropriate.
  - Post the sexual harassment policy in a prominent place and distribute the policy to all employees and suggest discussing in a staff meeting.
  - Be both neutral and objective during an investigation of an incident.
  - During the investigation of a complaint and possible subsequent discipline of the harasser, co-workers may feel angry or threatened by the complainant and his or her supporters. Stop rumors and offensive actions by coworkers immediately if an incident occurs. It is important to demonstrate that this type of activity will not be tolerated.
  - If tension between coworkers is a problem, consider having a workshop on team building or communication (not, however, about a particular incident!)

**Q:** *What should I do to help the complaining employee?*

- A:**
- Ensure the employee that you appreciate the knowledge regarding any problems and that you will ensure appropriate follow-up.
  - Explain whatever options the individual may have (formal investigations and reporting, informal handling of the matter and mediation).
  - The complaining employee should be informed of resources such as counseling that may be available to him or her (see below).
  - All complainants should be made aware that retaliation of any form against the



complainant will not be tolerated and will be subject to discipline.

- You should periodically check with the complaining employee to ensure that the harassment has ceased and that no retaliation has ensued.

***Q: Can or should I protect the privacy of the complainant and/or alleged harasser?***

A: You cannot guarantee complete confidentiality. Employees have a right to privacy regarding personal information. Managers and supervisors should respect the privacy of all parties concerned in a sexual harassment allegation. If you are reviewing a sexual harassment allegation, only involve those persons who can provide relevant information to determine the facts regarding the alleged conduct. Advise persons who must be involved in the review that it is necessary that the privacy of any and all parties must be honored. Set an example and put a stop to office rumors, innuendo and accusations.

***Q: Since I can't guarantee confidentiality . . . where can I send someone who simply wants to talk some things over?***

A: You may let all your employees know that confidential assistance is provided in this area by the Employee Assistance Program (EAP). EAP generally offers confidential counseling services to all city employees who want to discuss sexual harassment in their workplace. Many individuals fear that the information they give to EAP is not actually confidential and will end up in their personnel files. This is incorrect; a counselor can give confidential advice. The individual's health provider may provide counseling services to individuals or support groups.

Subject to demand, some EAPs can provide support groups to individuals who have suffered from sexual harassment and assist with mediation or team building within your department. This resource is also available for the person accused of sexual harassment.

***Q: What should I do if an employee is being sexually harassed by the public, clients, or vendors?***

A: All managers and supervisors should inform their employees that they should immediately report any sexual harassment from the public, clients or vendors. It may be necessary for you to have a conversation with the offender informing him or her that his/her behavior is unacceptable. You may also need to:

- ask him/her to leave
- report his/her behavior to his/her employer
- contact security
- follow-up with the harassed employee

- contact the Human Rights Commission if the harassment involves a City contractor

***Q: Can consensual sexual relations between a supervisor and his/her subordinate be considered sexual harassment?***

A: A consensual sexual relationship between a supervisor and a subordinate will always have consequences, some of which may be considered sexual harassment. It is important and professional that managers and supervisors maintain high standards of fairness and impartiality in their supervision of employees. These standards may be compromised, or at least the appearance of neutrality will be compromised, if a manager engages in a sexual relationship with a subordinate. **It is difficult to give an impartial performance appraisal to someone with whom you are involved in a sexual relationship.** Moreover, if the relationship between the supervisor and the employee ends or creates a hostile environment for others, then it may form the basis upon which a sexual harassment complaint can be filed. For professional reasons these relationships should be avoided and, if one occurs, both individuals may want to consider the possibility of transfer.

***Q: What records should I keep?***

A: Document, document, document. The importance of this employer responsibility cannot be overemphasized. You should document your conversations with the parties involved in the complaint, keep any evidence of harassment and make this evidence available to investigators, and document what actions you took to resolve the harassment situation, if any. Document what you witness, what you did, what you said and who witnessed any conversations or behavior. If you are ever called upon later to defend your actions, it is important that you can demonstrate you took appropriate action. Also encourage the complainant to document all incidents of harassment and to make those records available to investigators

### **III. QUESTIONS THAT THE EMPLOYEES MAY ASK YOU WITH SOME SUGGESTED ANSWERS**

***Q: Can I compliment someone?***

A: Yes, co-workers and supervisors can give compliments to their colleagues in the workplace. Telling someone they look good today or complimenting a new piece of clothing is generally considered fine. It is inappropriate if it is accompanied by a leering stare and/or a whistle and is continually given to only one particular person or is accompanied by a sexualized innuendo or behavior. Any of these may be experienced as sexual harassment. Examples of inappropriate comments which could be considered sexual harassment are:

- “Hey baby, You are sure looking fine today!”

- “Why don’t all women look like you?”
- “I love that outfit...it really shows your figure!”
- “Everyone should have muscles like you.”

***Q: I’m not sure if he or she really means “maybe” or if he or she really means “no.” What am I supposed to do?***

A: Because many people feel uncomfortable clearly stating what they need or want, often their needs or desires are expressed nonverbally. Being sensitive and perceptive to nonverbal communication can avoid many difficult situations and will provide a workplace that is respectful to all. For example, if you ask a coworker out and she/he does not clearly communicate a definitive yes or no answer, it is important for you to be aware of the nonverbal communication she/he is sending. Nonverbal clues could be:

- continual avoidance of saying "yes"
- moving backwards as you approach
- wringing of hands
- downcast eyes/avoiding eye contact
- shrugging of shoulders

Similarly, if these behaviors are accompanied by verbal communication which is unclear, this may be a good indication that she/he is not interested in dating. Examples of unclear, passive, verbal behavior are words such as: maybe, I guess, I think I’m busy, you know, later, some other time. These passive words may all indicate a desire to say "no" without hurting your feelings.

It is the responsibility of every city employee to be sensitive to and aware of the verbal and nonverbal behaviors of his/her coworkers, especially as it pertains to dating in the workplace. The diversity of San Francisco's workforce and the variety of cultures represented make it necessary to be aware of and attempt to understand all forms of communication.

#### **IV. COMMENTS OFTEN MADE ABOUT SEXUAL HARASSMENT**

***S/he or she never told me s/he didn’t like my comment (gesture, hug etc.).***

There are many reasons why individuals do not speak up against offensive behavior. Many individuals who experience sexual harassment in the workplace are understandably uncomfortable telling someone their behavior is objectionable. Think how often you yourself have told someone that you don’t like their comments or attention. Study after study demonstrates that most individuals resist complaining about sexual harassment.

It is important to understand and consider unique differences that might prohibit an individual



from being assertive in this situation. For example, cultural or ethnic experiences that create traditions of silence and avoidance often dictate how an individual deals with an awkward or undesirable situation. Someone who is offended might even laugh because she or he is frightened by this behavior emotionally. He or she might also fear the risk of being thought of differently, unfriendly, ill-humored or labeled a "bad sport" or a "trouble maker." For many people their desire to be liked and not make waves outweighs their ability to speak out about objectionable behavior. You cannot assume that everyone welcomes your comments or attention just because he or she does not speak out. We all need to become more sensitized to nonverbal clues and to ask direct questions.

Studies show that the same behavior that is offensive to a woman, for example, may not be perceived as offensive to a man. Many books have been written on the subject. Sexual harassment, not unlike domestic violence and rape, is still commonly seen as something an individual asks for if he or she does not loudly and clearly object rather than as offensive conduct that is *perpetrated on* that individual. Communication is the key that bridges the gap between different perceptions of what is offensive.

### *S/he just can't take a joke.*

A joke is only a joke when all parties involved think that it is funny. The culturally acceptable standards of what is offensive and what is just a joke have changed. Sexual jokes are no longer considered a laughing matter "at work." It is the responsibility of all city employees to respond and adapt to this change. The best avenue is to apologize for your joke and not repeat the behavior.

Sexual harassment is no joke because it is, by definition, unwelcome behavior or attention. Comments that are made at the expense or embarrassment of another are not funny. Many people often feel the need to "fit in" and not draw attention to themselves so they may laugh in self-defense rather than in amusement at the joke.

Because sexual jokes may have been accepted by some female or male employees in the past doesn't mean that every female or male employee will think they are funny. It is quite possible that a sexual joke will be considered humorous to one woman or man and will be offensive and considered sexual harassment to a different woman or man. All jokes that are sexual in nature must be eliminated from the workplace.

While a single joke will not land you in court, it can be (if someone is offended) a violation of the City and County Sexual Harassment Policy which can be cause for a reprimand.





## **Appendix I**

### **Frequently Asked Questions**



## **FREQUENTLY ASKED QUESTIONS**

**The following list of questions will be incorporated into a guidelines booklet and training materials.**

- What is sexual harassment?
- Why is a sexual harassment policy necessary?
- What are some common myths about sexual harassment?
- What does the law say about sexual harassment?
- What is third-party and sex-based harassment?
- What are the parameters of the workplace?

### **Employee Section**

- How do I know if I am being sexually harassed at work?
- Can a man be sexually harassed at work, too?
- What are my options if I want to file a sexual harassment complaint?
- What if I do not want to file a formal complaint about sexual harassment but do want help?
- What happens when I file a report of sexual harassment?
- If I file a complaint, everyone at work will know and I don't want to deal with that. What can I do?
- I am a woman/man working in a non-traditional job . . . what should I be particularly aware of?
- Can I date someone from work?
- If I am asked out on a date and I don't want to go, how do I say "no" without hurting his or her feelings?
- I am not sure if she really means maybe or if she really means no. What am I supposed to do?
- What if the comment was made as a joke and not meant to be offensive?
- Can I compliment someone?
- If I tell one sexual joke, does that mean that I will be sued (or my department/company will be sued?)
- Is all harassment illegal?
- What is prohibited retaliation?
- As an employee, what is my personal potential liability in this area?

### **Employer Section**

- Can consensual relations between a supervisor and his/her subordinate be considered sexual harassment?
- What can I do to prevent sexual harassment in my workplace?



- What should I do when I observe or suspect sexual harassment?
- Can or should I protect the privacy of the complainant and/or alleged harasser?
- What records should I keep?
- What are possible disciplinary actions I can take against the harasser?
- What should I do to help the harassed employee?
- What should I do if an employee is being sexually harassed by the public, clients, or vendors?
- What resources exist to deal with sexual harassment?
- What should I, as a high-level manager/director do to a lower-level manager who failed to take appropriate preventive or corrective action?



## **Appendix J**

### **Changes to Performance Appraisal**



## CHANGES TO PERFORMANCE APPRAISAL

In the past few years, the Civil Service Commission revised its Performance Appraisal Procedures and drafted a Performance Appraisal Guide and Management Performance Appraisal Workbook. The two documents consist of instructions for conducting a performance appraisal with managers and a form for the evaluation. To ensure future accountability in this area, a revision of the Performance Appraisal Guide and Management Performance Appraisal Workbook is necessary. The following language will need to be substituted:

Use of Human Resources: (Performance Appraisal Guide P. 14)

### *B. Sexual Harassment: (NEW)*

*Prevention of sexual harassment is an important management function.*

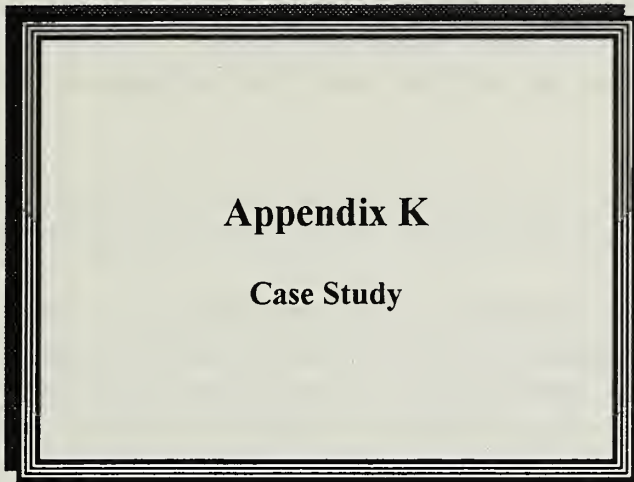
*Does he or she have a “zero tolerance” standard of sexual harassment? Has he or she made sure that all employees in his or her area of responsibility have read, understand and have implemented the City's policy on sexual harassment? Does he or she report all known incidents of sexual harassment to the Office of Sexual Harassment Prevention, and to the Department Head? Does he or she take all complaints of sexual harassment seriously? Has he or she encouraged his or her employees to feel comfortable about reporting incidents of sexual harassment? Has she or he set a good example in treating all employees with respect? Has he or she ensured that all personnel decisions are made in accordance with the sexual harassment policy? Has he or she been implementing immediate and appropriate corrective action when warranted? Has he or she kept information about any ongoing investigations in confidence? Has he or she refrained from retaliation, and ensured that employees do not retaliate against complainants?*

Use of Human Resources: (Management Performance Appraisal Workbook [Revised 05/01/92] page 3)

- *(NEW) Insures a sexual harassment-free work environment, sets a “zero-tolerance” standard*







## **Appendix K**

### **Case Study**



## CASE STUDY

Can a sexual harassment-free work environment be created within the City and County of San Francisco? Yes. As only one example, we offer a city department which recognized the enormous costs of sexual harassment in the workplace and took concrete steps toward its eradication. In FY93/94, during a three-and-one-half (3 ½) month period of time, nine sexual harassment complaints were filed in this department. Only one complaint was filed during the same amount of time in FY95/96. The significant decline in the number of complaints is the direct result of actions taken by managers and supervisors which set the tone of "zero tolerance" for sexual harassment.

An interview with department staff revealed the philosophy and actions which successfully managed to change the culture around this issue in a relatively short period of time (two years).

*First*, the department's top management issued an unequivocal memo in January, 1992 stating the seriousness of sexual harassment and encouraging employees to bring the incidents to the attention of management. As reinforcement, the *administration* conducted sexual harassment trainings on a regular basis for the department.

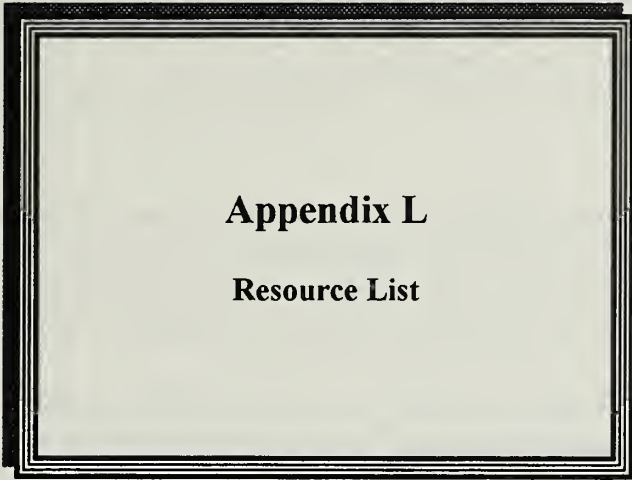
*Secondly*, management made every effort to respond to sexual harassment complaints immediately upon receipt. The philosophy of the department is that the sooner a complaint is dealt with, the better the chances one has of minimizing its impact in the workplace. Some complaint investigations were begun within minutes of receipt.

*Thirdly*, department staff delivered swift punishment to offenders. This was a crucial step to setting the tone at the department. In one case, a high-ranking employee was fired for sexual harassment after having worked in the department for many years. Employees saw examples like this and realized that management takes this issue seriously. The management continued to deliver the maximum penalties allowable for the determined offense, which sent the message to everyone that sexual harassment will not be tolerated and that no one is above the law. This message had the powerful effect of changing the culture of an entire department from one of tolerance to intolerance for sexual harassment, a change which has benefited all workers.

The change in the management and functioning of this department shows that regular and thorough trainings for all staff, swift and effective sanctions for accused harassers and serious and responsible attitudes by the leadership can significantly reduce sexual harassment in the workplace. By encouraging mutual respect of all city employees, it is the expectation of the Sexual Harassment Task Force that the culture of San Francisco, as a whole, will change and we can all begin to reap the benefits.







## **Appendix L**

### **Resource List**



# San Francisco Sexual Harassment Resource List

April, 1996

The San Francisco Sexual Harassment Resource List is the result of outreach into the sexual harassment prevention community which was conducted by the Sexual Harassment Task Force from 1995-1996. It includes the names, addresses and contact information for many individuals, corporations and organizations which are associated with the prevention of sexual harassment in the workplace and gender equity issues, in general. The items selected were meant to specifically serve individuals in the San Francisco bay area.

The items included on the following list have not been reviewed, graded, evaluated or screened in any way either by the Sexual Harassment Task Force (SHTF) or by the Commission on the Status of Women (COSW). The SHTF, COSW or any department of the City and County of San Francisco do not endorse any particular individual, corporation or organization.

This is only a partial listing of available resources. While this list includes many names of individuals, corporations and other organizations associated with the prevention of sexual harassment in the workplace, *this is not an exhaustive list.*

Every effort to insure accuracy of the following information has been made. Neither the San Francisco SHTF, the COSW nor any other departments of the City and County of San Francisco can control information from this list which has changed over time. Users are encouraged to check with the individual resource providers for the most up-to-date and accurate information. If you have additional information to contribute to this list please contact the Commission on the Status of Women (415) 252-2570.



<div> <div>San Francisco Sexual Harassment Resource List</div> <div>April, 1996</div> </div>	To File a Complaint/Grievance									
	Government Resources									
	Legal Resources/Lawyers									
	Counselors and/or Support Groups									
	Consultants/Trainers									
	Dispute Resolution/Mediation									
	Investigators									
	Focus on Employees									
	Focus on Supervisors/Managers									
	Resources for Schools/Young People									
	Training (written, audio, video, computer materials)									
<b><u>WRITTEN MATERIALS</u></b>										
	<i>How to Create a Workplace Free of SH</i> SF Commission on the Status of Women 25 Van Ness Ave, Room 130; SF, CA 94102 ph: (415) 252-2570 fx: (415) 252-2575									
	<i>SH Research &amp; Rsrcs</i> The National Council for Research on Women 530 Broadway at Spring NY, NY 10012-3920 ph: (212) 274-0730 fx: (212) 274-0821									

## April, 1996

2



<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>										
	To File a Complaint/Grievance	Government Resources	Legal Resources/Lawyers	Counselors and/or Support Groups	Consultants/Trainers	Dispute Resolution/Mediation	Investigators	Focus on Employees	Focus on Supervisors/Managers	Resources for Schools/Young People
	Training (written, audio, video, computer materials)									
<i>Supervisors Quick Guide to SH Law</i> ; \$99/ea, Council on Education in Management (see above)	X								X	
<i>SH: Investigator's Manual</i> , \$189/ea Premiere Publishing, Ltd. (See above)	X						X			
<i>Stopping SH</i> Camille Colastosti and Elissa Karg; LERP; 7435 Michigan Ave Detroit, MI 48210 ph: (313) 842-6262	X							X		
<i>9 To 5 Guide to Combating SH</i> Ellen Cassedy and Ellen Bravo; 9 to 5, The National Association of Working Women; 614 Superior Ave. NW; Cleveland, OH 44113 ph: (414) 274-0925 ph: (800) 522-0925	X							X		

<div> <div>San Francisco Sexual Harassment Resource List</div> <div>April, 1996</div> </div>										
To File a Complaint/Grievance	Government Resources	Legal Resources/Lawyers	Counselors and/or Support Groups	Consultants/Trainers	Dispute Resolution/Mediation	Investigators	Focus on Employees	Focus on Supervisors/Managers	Resources for Schools/Young People	Training (written, audio, video, computer materials)
							X			X
									X	
										X

*SH and Employment Discrimination Against Women: A Consumer Handbook for Women Who Are Harmed, and for Those Who Care*  
Feminist Institute  
Clearinghouse, P.O. Box 30563; Bethesda, MD 20824

*Women's Resource Center Newsletter/UCSF*  
Denise Harvey, Director  
100 Medical Center Way  
San Francisco, CA 94143-0909  
(415) 476-5222

*Tune in to Your Rights: A Guide for Teenagers About Turning Off Sexual Harassment*, 1985, \$3.00; University of Michigan; Ann Arbor, MI  
ph: (313) 763-9910  
fx: (313) 763-1229



To File a Complaint/Grievance										
Government Resources										
Legal Resources/Lawyers										
Counselors and/or Support Groups										
Consultants/Trainers										
Dispute Resolution/Mediation										
Investigators										
Focus on Employees										
Focus on Supervisors/Managers										
Resources for Schools/Young People										
Training (written, audio, video, computer materials)										
<div> <div>San Francisco Sexual Harassment Resource List</div> <div>April, 1996</div> </div>	<i>Flirting or Hurting? A Teacher's Guide to Student-to-Student Sexual Harassment in Schools (6-12), 1994, \$19.95/ea.; Center for Research on Women; Wellesley College 106 Central Street Wellesley, MA 02181-8259</i>	X	X							
	<i>Secrets in Public: SH in Public (and Private Schools); Working Paper, \$9.00, Center for Research on Women (see above)</i>	X	X							
	<i>Secrets in Public: Sexual Harassment in our Schools; Report on Seventeen Magazine survey, \$11.00; Center for Research on Women (see above)</i>	X	X							

<b>San Francisco Sexual Harassment Resource List</b>  <b>April, 1996</b>	<b>To File a Complaint/Grievance</b>		
	<b>Government Resources</b>		
	<b>Legal Resources/Lawyers</b>		
	<b>Counselors and/or Support Groups</b>		
	<b>Consultants/Trainers</b>		
	<b>Dispute Resolution/Mediation</b>		
	<b>Investigators</b>		
	<b>Focus on Employees</b>		
	<b>Focus on Supervisors/Managers</b>		
	<b>Resources for Schools/Young People</b>		
<b>Training (written, audio, video, computer materials)</b>			
<i>Gender Equity for Educators, Parents, and Community; Equity in Education Series</i> (elementary). Women's Educational Equity Act Resource Center, 55 Chapel Street, Suite 200; Newton, MA 02158-1060 ph: (800) 225-3088 fx: (617) 630-8402	<b>X</b>	<b>X</b>	
<i>Preventing Teen Dating Violence</i> ; 1986, Three Session Curriculum for Teaching Adolescents; \$15.00 and Peer Leader Training Manual, \$10.00. Dating Violence Intervention Project; Cambridge, MA ph: (617) 868-8232	<b>X</b>	<b>X</b>	

<b>To File a Complaint/Grievance</b>		
<b>Government Resources</b>		
<b>Legal Resources/Lawyers</b>		
<b>Counselors and/or Support Groups</b>		
<b>Consultants/Trainers</b>		
<b>Dispute Resolution/Mediation</b>		
<b>Investigators</b>		
<b>Focus on Employees</b>		
<b>Focus on Supervisors/Managers</b>		
<b>Resources for Schools/Young People</b>		
<b>Training (written, audio, video, computer materials)</b>		
<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>		
<i>Get Smart: A Woman's Guide to Equality on Campus</i> ; Feminist Press at CUNY; 311 East 94th St.; NY, NY 10128 ph: (212) 360-5790 fx: (212) 348-1241	<b>X</b>	<b>X</b>
<i>Sexual Harassment is Forbidden by Law</i> (pamphlet), published by the Department of Fair Employment and Housing, 30 Van Ness Ave., Suite 3000, SF, CA 94102-6073 (415) 557-2005	<b>X</b>	<b>X</b>



<b>To File a Complaint/Grievance</b>									
<b>Government Resources</b>									
<b>Legal Resources/Lawyers</b>									
<b>Counselors and/or Support Groups</b>									
<b>Consultants/Trainers</b>									
<b>Dispute Resolution/Mediation</b>									
<b>Investigators</b>									
<b>Focus on Employees</b>									
<b>Focus on Supervisors/Managers</b>									
<b>Resources for Schools/Young People</b>									
<b>Training (written, audio, video, computer materials)</b>									
<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>									
<i>Sexual Harassment: Know Your Rights</i> (pamphlet), U.S. Department of Labor, Office of the Secretary, Women's Bureau, 71 Stevenson St, Ste.927, San Francisco, CA 94105 (415) 744-6679 (Region IX)									
<b>Video Materials</b>									
<i>SH...Shades of Grey</i> 5 Video tapes, 10 to 15 minutes each. Premiere Publishing, Ltd.; 145 Northwest 85th St., Suite 103; Seattle, WA 98117 ph: (800) 767-3062 fx: (206) 782-4601									



San Francisco Sexual Harassment Resource List April, 1996	To File a Complaint/Grievance	Government Resources	Legal Resources/Lawyers	Counselors and/or Support Groups	Consultants/Trainers	Dispute Resolution/Mediation	Investigators	Focus on Employees	Focus on Supervisors/Managers	Resources for Schools/Young People	Training (written, audio, video, computer materials)
<i>SH: "It's not just Courtesy, It's the Law"</i> \$495.00, Council on Education in Management; 325 Lennon Lane, Walnut Creek, CA 94598-2418 ph: (800) 942-4494 fx: (510) 988-1888								X	X		X
<i>SH: Serious Business;</i> \$495/ ea.; Council on Education in Management. (See above)									X		X
<i>Subtle SH</i> Quality Media Resources; P.O. Box 1796; Bellevue, WA 98009-1706 ph: (800) 800-5129								X	X		X
<i>Respect That Woman</i> by Kelley Ellsworth, 1995, \$65.00, Wider Opportunities for Women; 815 15th St, NW; Washington, DC 20005 ph: (202) 638-3134								X	X		X

<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>										
To File a Complaint/Grievance	Government Resources	Legal Resources/Lawyers	Counselors and/or Support Groups	Consultants/Trainers	Dispute Resolution/Mediation	Investigators	Focus on Employees	Focus on Supervisors/Managers	Resources for Schools/Young People	Training (written, audio, video, computer materials)
							X			X
							X			X
									X	
									X	
									X	
									X	
									X	
									X	

*SH: Is It or Isn't It?*  
American Media Inc  
4900 University Ave.  
West Des Moines, IA  
50266-6769  
ph: (800) 262-2557

*Would You Let Someone Do This to Your Sister?*  
Women's Rights  
Department;  
United Auto Workers;  
8000 East Jefferson Ave.  
Detroit, MI 48214  
ph: (313) 926-5271

*Boys Will Be Boys*  
\$249/ea,  
Produced by Little Eagle  
Productions;  
Originally Aired as ABC  
after-school special;  
Intermedia;  
Seattle, WA  
ph: (800) 553-8336

*SH in Schools*  
June 1993; \$19.93/ea  
ABC News Nightline  
ph: (800) 222-9420

<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>	To File a Complaint/Grievance									
	Government Resources									
	Legal Resources/Lawyers									
	Counselors and/or Support Groups									
Consultants/Trainers										
Dispute Resolution/Mediation										
Investigators										
Focus on Employees										
Focus on Supervisors/Managers										
Resources for Schools/Young People										
Training (written, audio, video, computer materials)										
<i>SH: Issues and Answers</i> 20 minute video and companion book; CUPA; 1233 20th St. NW; Washington, DC 20036 ph: (202) 429-0311, ext. 14	<b>X</b>	<b>X</b>								
	<b>X</b>	<b>X</b>								
	<b>X</b>									
	<b>X</b>									
<i>SH in the Workplace (CD ROM); \$495/ea, Media Code, 2165-D E. Francisco Blvd.; San Rafael, CA 94901</i> ph: (415) 453-9293 fx: (415) 454-0229	<b>X</b>									



<div> <div>San Francisco Sexual Harassment Resource List</div> <div>April, 1996</div> </div>	To File a Complaint/Grievance									
	Government Resources									
	Legal Resources/Lawyers									
	Counselors and/or Support Groups									
	Consultants/Trainers									
	Dispute Resolution/Mediation									
	Investigators									
	Focus on Employees									
	Focus on Supervisors/Managers									
	Resources for Schools/Young People									
	Training (written, audio, video, computer materials)									
<b>Consultants</b>										
Brinkman & Chersky 1300 12th Ave SF, CA 94122 ph: (415) 661-4040 fx: (415) 661-0454										
Bonita Banducci Banducci Consulting 311 Wyndham Drive Portola Valley, CA 94028 ph: (415) 529-9336 e-mail: BLBanducci@aol.com										
Corbett & Kane Mary Maloney Roberts Margaret J. Grover Spear St. Tower, Ste 1800; One Market Plaza; SF, CA 94105 ph: (510) 547-2434 fx: (510) 658-5016										



<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>	<b>To File a Complaint/Grievance</b>								
	<b>Government Resources</b>								
	<b>Legal Resources/Lawyers</b>								
	<b>Counselors and/or Support Groups</b>								
	<b>Consultants/Trainers</b>					<b>X</b>			
	<b>Dispute Resolution/Mediation</b>								
	<b>Investigators</b>								
	<b>Focus on Employees</b>								
	<b>Focus on Supervisors/Managers</b>								
	<b>Resources for Schools/Young People</b>								
	<b>Training (written, audio, video, computer materials)</b>								
<i>Executive Diversity Services</i> 675 South Lane St.; Seattle, WA 98104 ph: (206) 224-9293 fx: (206) 224-9303									
<i>Fair Measures</i> Jo-Ann Birch P.O. Box 2146 Santa Cruz, CA 95063 ph: (408) 458-0500 fx: (408) 458-0181									
<i>Pacific Gateway Assoc.</i> Pat Fitzgerald 210 San Benito Way San Francisco, CA 94127 ph: (415) 566-8590									
<i>Kulisch &amp; Koller Consulting</i> 4285 Los Palos Ave. Palo Alto, CA 94306 ph: (800) 690-0190									

<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>	<b>To File a Complaint/Grievance</b>								
	<b>Government Resources</b>								
	<b>Legal Resources/Lawyers</b>							<b>X</b>	
	<b>Counselors and/or Support Groups</b>								
	<b>Consultants/Trainers</b>						<b>X</b>		
	<b>Dispute Resolution/Mediation</b>					<b>X</b>			
	<b>Investigators</b>								
	<b>Focus on Employees</b>					<b>X</b>			
	<b>Focus on Supervisors/Managers</b>					<b>X</b>			
	<b>Resources for Schools/Young People</b>								
	<b>Training (written, audio, video, computer materials)</b>								
<i>Littler, Mendelsohn, Fastiff..., etc.</i> Maria Narayan 650 California St., 20th floor, SF, CA 94108 ph: (415) 327-1300									
<i>Amy Oppenheimer</i> 878 Spruce Street Berkeley, CA 94707 ph: (510) 528-8787									
<i>Jan Salisbury</i> Salisbury Consulting 2407 Parkside Drive Boise, ID 83712 ph: (208) 336-7703									
Schachter, Kristoff, Orenstein, and Berkowitz Attorneys at Law 505 Montgomery St. 14th Floor SF, CA 94111-2585 ph: (415) 391-3333 fax: (415) 392-6589									

San Francisco Sexual Harassment Resource List April, 1996	To File a Complaint/Grievance	Government Resources	Legal Resources/Lawyers	Counselors and/or Support Groups	Consultants/Trainers	Dispute Resolution/Mediation	Investigators	Focus on Employees	Focus on Supervisors/Managers	Resources for Schools/Young People	Training (written, audio, video, computer materials)
Barry Shapiro & Associates 6757 Armour Dr. Oakland, CA 94611 ph: (510) 339-8961 fx: (510) 339-9862					X						
Monique Steele Steele, Fryer & Harrigan 2101 Webster St.; Ste 1500; Oakland, CA 94612 ph: (510) 446-7835			X		X		X	X	X		
Sharon Hoff Equity Consultant 3 Gaiser Court SF, CA 94122 ph: (415) 864-0394										X	
<b>MEDIATION</b>											
The Community Board Programs- Conflict Resolution Resources 1540 Market St., Ste. 490; SF, CA 94102 ph: (415) 552-1250 fx: (415) 626-0595						X					



<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>	To File a Complaint/Grievance										
	Government Resources										
	Legal Resources/Lawyers										
	Counselors and/or Support Groups										
	Consultants/Trainers										
Dispute Resolution/Mediation						X					
Investigators											
Focus on Employees											
Focus on Supervisors/Managers											
Resources for Schools/Young People											
Training (written, audio, video, computer materials)											
<i>Laura Farrow</i> Mediation Law Offices 34 Forrest St. Mill Valley, CA 94941 ph: (415) 383-1300 fx: (415) 383-4946											
<i>Vivien B. Williamson</i> JAMS Endispute 100 Spear Street, Ste 520; SF, CA 94105 ph: (415) 543-3200 fx: (415) 543-3041											
<b><u>LEGAL or TECHNICAL RESOURCES</u></b>											
<i>Bar Association of San Francisco</i> Lawyer Referral Service 685 Market St., Ste 700 SF, CA 94105 ph: (415) 764-1616									X		
<i>Chinese for AA</i> 17 Walter Lum Place SF, CA 94108 ph: (415) 274-6750					X		X	X	X		



<b>To File a Complaint/Grievance</b>	<b>Government Resources</b>	<b>Legal Resources/Lawyers</b>	<b>Counselors and/or Support Groups</b>	<b>Consultants/Trainers</b>	<b>Dispute Resolution/Mediation</b>	<b>Investigators</b>	<b>Focus on Employees</b>	<b>Focus on Supervisors/Managers</b>	<b>Resources for Schools/Young People</b>	<b>Training (written, audio, video, computer materials)</b>	<b>San Francisco Sexual Harassment Resource List April, 1996</b>
		X					X				<i>Coalition for Immigrant Refugee Rights</i> 995 Market Street, Ste 1108; SF, CA 94103 ph: (415) 554-2444
		X									<i>Coalition for Labor Union Women</i> 15 Union Square NY, NY 10003 ph: (212) 242-0700
		X									<i>Disability Rights Education &amp; Defense Fund</i> 2212 - 6th St Berkeley, CA 94702 ph: (510) 644-2555 fx: (510) 841-8645
		X					X				<i>Employment Law Center, Workers Rights Clinic;</i> 1663 Mission Street, Ste 550; SF, CA 94103 ph: (415) 864-8208
		X					X				<i>Equal Rights Advocate</i> 1663 Mission St, Ste. 400; SF, CA 94103 ph: (415) 621-0505

To File a Complaint/Grievance	Government Resources	Legal Resources/Lawyers	Counselors and/or Support Groups	Consultants/Trainers	Dispute Resolution/Mediation	Investigators	Focus on Employees	Focus on Supervisors/Managers	Resources for Schools/Young People	Training (written, audio, video, computer materials)
		X					X			<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>
		X					X			<i>La Raza Centro Legal</i> 2519 Mission Street SF, CA 94110 ph: (415) 641-1069
		X					X			<i>Lawyers Committee for Urban Affairs</i> 301 Mission St SF, CA 94105 ph: (415) 543-9444
		X					X			<i>National Center for Lesbian Rights</i> 1663 Mission St. Ste 550; SF, CA 94103 ph: (415) 621-0674
		X					X			<i>Women's Employment Rights Clinic, Golden Gate University School of Law;</i> 536 Mission St SF, CA 94105-2968 ph: (415) 442-6647
		X								<i>Alice C. King</i> 15 Ashford Court Mill Valley, CA 94941 ph: (415) 389-1752 fx: (415) 389-0462

<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>	<b>To File a Complaint/Grievance</b>	<b>Government Resources</b>	<b>Legal Resources/Lawyers</b>	<b>Counselors and/or Support Groups</b>	<b>Consultants/Trainers</b>	<b>Dispute Resolution/Mediation</b>	<b>Investigators</b>	<b>Focus on Employees</b>	<b>Focus on Supervisors/Managers</b>	<b>Resources for Schools/Young People</b>	<b>Training (written, audio, video, computer materials)</b>
<i>SF Commission on the Status of Women</i> 25 Van Ness, Ste. 130; SF, CA 94102 ph: (415) 252-2570 fx: (415) 252-2575		X			X			X	X		X
<i>SF Human Rights Commission</i> 25 Van Ness, 8th Floor; SF, CA, 94102 ph: (415) 252-2500		X						X			
<i>Dept of Fair Employment and Housing</i> 30 Van Ness Avenue SF, CA 94102 ph: (415) 557-2005	X	X						X	X		
<i>Equal Employment Opportunity Commission</i> SF District Office 901 Market St, Ste. 500 SF, CA 94103 ph: (415) 744-6500	X							X	X		



<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>	To File a Complaint/Grievance								
	Government Resources	X							
	Legal Resources/Lawyers								
	Counselors and/or Support Groups								
	Consultants/Trainers								
	Dispute Resolution/Mediation								
Investigators									
Focus on Employees		X							
Focus on Supervisors/Managers		X							
Resources for Schools/Young People									
Training (written, audio, video, computer materials)									
<i>US Dept. Of Labor Office of the Secretary Women's Bureau Washington, DC 20210</i>									
<i>CA Commission on the Status of Women 1303 J Street, Ste 400 Sacramento, CA 95814- 2900 ph: (916) 445-3173 fx: (916) 322-9466</i>									
<b><u>COUNSELORS</u></b>									
<i>Burnet B. Sumner, Ph.D. ph: (415) 759-9403 fx: (415) 665-5171</i>								X	
<i>Richard Delman, Ph.D. California Psychotherapy Resources 220 Bush Street, Ste. 870 San Francisco, CA 94104 ph: (415) 781-1900 fx: (415) 403-7366 ext. 32</i>								X	





<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>	To File a Complaint/Grievance									
	Government Resources									
	Legal Resources/Lawyers									
	Counselors and/or Support Groups									
	Consultants/Trainers									
	Dispute Resolution/Mediation									
	Investigators									
	Focus on Employees									
	Focus on Supervisors/Managers									
	Resources for Schools/Young People									
	Training (written, audio, video, computer materials)									
<b><u>OTHER</u></b>										
Individual Human Resource Offices *Check with your company's own HR dept. or Employee Assistance Program (EAP) to file a complaint internally.										<b>X</b>
Unions *If you are a member of a union, research what resources they will provide for you.										<b>X</b>
Health Plans *Check with your health plan for coverage of costs associated with experiencing sexual harassment on the job.									<b>X</b>	

<b>To File a Complaint/Grievance</b>		<b>X</b>
<b>Government Resources</b>		
<b>Legal Resources/Lawyers</b>		
<b>Counselors and/or Support Groups</b>		
<b>Consultants/Trainers</b>		
<b>Dispute Resolution/Mediation</b>		
<b>Investigators</b>		
<b>Focus on Employees</b>		
<b>Focus on Supervisors/Managers</b>		
<b>Resources for Schools/Young People</b>	<b>X</b>	
<b>Training (written, audio, video, computer materials)</b>		
<b>San Francisco Sexual Harassment Resource List</b> <b>April, 1996</b>	<i>UC Berkeley Women's Studies Department, Lecture Series on Gender Studies/Gender Research,</i> 2241 College #1070, University of California, Berkeley, CA 94720-1070 ph: (510) 642-2767 fx: (510) 642-4605 email: ws@garnet.berkeley.edu	

## **Appendix M**

**Testimony from Public Hearing**





# **Testimony from the Sexual Harassment Task Force Joint Public Hearing**

of  
The Commission on the Status of Women  
The Civil Service Commission and  
The Human Rights Commission

January 18, 1996  
5:30 pm to 8:00 pm  
Board of Supervisors Chambers  
San Francisco, California

Summary of Testimony and  
Submitted Written Materials

Assembled and Distributed by  
The Commission on the Status of Women



## Table of Contents

List of Public Hearing Attendees.....	Page 1
Introduction.....	4
Submitted Written Testimony	
Mayor Willie Brown.....	5
Andra Gomborg, City of Chicago.....	7
Barbara Engle, City of Chicago.....	9
Dr. Sandra Hernandez, Dept. of Public Health.....	11
Linda Jofuku, Local 21, AFL-CIO.....	13
Judith Kurtz, Equal Rights Advocates.....	16
John Marquez, Dept of Public Works.....	19
Ginny Vida, (formerly) of NY State Sexual Harassment Task Force.....	24
Summary of Spoken Testimony.....	29





# **Attendees of Sexual Harassment Public Hearing**

## **Facilitators**

**Commissioner Patricia Chang**

President

Commission on the Status of Women

**Commissioner Caryl Ito**

Chair

Sexual Harassment Task Force

## **Presented Testimony**

**Betty Bortin**

Legal Council

Sheriff's Office

**Mayor Willie Brown**

Mayor

City and County of San Francisco

**Barry Chersky**

Consultant/Trainer

Brinkman and Associates

**Cheryl D. Cook**

Director

Veterans Service Office

**Denise Couter-Graham**

Cashier

North Beach Swim Pool

Department of Parks and Recreation

**Jean Crossman-Miranda**

Director

Employee Assistance Program

**Mary Dryovage**

Attorney

Chair, California Employment Lawyers

Association

**Alice Fialkin**

President

Transport Worker's Union, Local 200

**Maggie Grover**

Attorney

Corbett and Kane

**Clothilde Hewlett**

Commissioner

San Francisco Police Department

**Sharon Hoff**

Training Specialist

Equity Training Concepts

**Linda Jofuku**

Representative

International Federation of Professional  
and Technical Engineers

Local 21, AFL-CIO

**Wanda Jung**

Civil Rights and Affirmative Action Coordinator

Department of Social Services

**Judith Klain**

Manager of Health Planning and Evaluation

AIDS Office, Department of Public Health

*formerly:* Employment Specialist,

Commission on the Status of Women

**Judith Kurtz**

Managing Attorney

Equal Rights Advocates

**Amy Oppenheimer**

Expert on Sexual Harassment

Administrative Law Judge, State of California

**Francis Pinnock**

Attorney

Pinnock & Schectman

**Heather Quinn**

Field Representative

Representative Jackie Speier's Office

**Kate Reed**

Construction Inspector

Department of Public Works

**Marcie Seville**

Director, Women's Employment Rights Clinic and

Professor, Golden Gate University School of Law

**Alma Sisco-Smith**

Coordinator

UCSF Office of Sexual Harassment Prevention and Resolution

**Ginny Vida**

Investigator/Auditor, Ethics Commission

*Formerly:* Director, Office of Sexual Harassment Issues

New York State, Division of Human Rights





## Introduction

A report entitled, Sexual Harassment Complaint Procedures in the City and County of San Francisco Government: Recommendations to Improve the Prevention of Sexual Harassment and the Processing of Complaints, by Merrick T. Rossein Associates was submitted to the Board of Supervisors and the Commission on the Status of Women (COSW) in August, 1994. As recommended in the report, the 20-member Sexual Harassment Task Force was appointed to devise an implementation plan. The Task Force is composed of individuals from different city departments and from the private sector who work in the area of sexual harassment. It is chaired by a member of the Commission on the Status of Women and COSW provides the necessary staffing.

This document presents a summary of the testimony and written materials which were presented at the Sexual Harassment Task Force Joint Public Hearing of January 18th, 1996. The hearing and the testimony are both part of a process which is directed towards the improvement of sexual harassment policies and procedures for the City and County of San Francisco.

The Public Hearing was scheduled for January 18th, 1996, after the Task Force completed its first working-draft of an implementation plan. This draft included recommendations for implementing revisions in sexual harassment training and prevention, for changes in sexual harassment policy and complaint procedures and an improved set of guidelines for managerial and non-managerial city employees to interpret these policies and procedures. The purpose of the public hearing was to invite comment on the proposed recommendations of the Draft Implementation Plan.

The Task Force and the Commission on the Status of Women acknowledge the commitment of all individuals who attended the Public Hearing in their respective efforts to end sexual harassment in the workplace and thank all individuals who provided testimony. A broad spectrum of opinions and perspectives were voiced at the Public Hearing. These diverse opinions will be taken into consideration by the Task Force as it begins to assemble the final draft of the Implementation Plan which will be submitted to the members of the Commission on the Status of Women, the Board of Supervisors and the Mayor, for final approval.





Submitted by Mayor Willie Brown, January 18th, 1996

## VI. NOTICES AND RECORD-KEEPING IN ALL CASES

### A. Notice of Action Taken

The Rules Committee shall promptly inform the person making the complaint and the person against whom the complaint was made of the outcome of the investigation, including any corrective actions taken as a result of the complaint and investigation. The Rules Committee may limit the information conveyed in order to protect the reasonable expectations of privacy of witnesses and parties.

Any written reports, findings, recommendations, or documentation of the investigation shall remain confidential, and shall not be subject to review by any parties other than those persons necessary to carry out the investigation and its review, unless the Rules Committee in its sole and absolute discretion determines that either the interests of the parties involved or the public interest will be better served by disclosure. In the event that the Rules Committee determines that disclosure is appropriate in a particular case, it may disclose all or any part of the investigator's report and accompanying documentation.

### B. Written Records to be Maintained

The Rules Committee shall keep written records of any formal or informal supervisor's reports and Rules Committee investigation and any recommendations for discipline, corrective action or sanctions.

## VII. CAO DISPUTE RESOLUTION

If, at any point in the proceedings, the Chief Administrative Officers are unable to agree, either may bring the disagreement to the Chair and Vice-Chair of the Rules Committee for determination.

## STATE AND FEDERAL COMPLAINTS

In addition to filing a complaint with the Assembly, a person who believes he or she has been subjected to sexual harassment may file the following options:

1. He or she may file a complaint with the California Department of Fair Employment and Housing (DFEH) and the Federal Equal Employment Opportunity Commission (EEOC) concurrently with filing a complaint or appeal under the Assembly's internal complaint procedures.

2. He or she may file a complaint with the DFEH or EEOC instead of using the Assembly's process.

suspension without pay, reduction in pay, demotion, termination, or other appropriate action.

If these proposed findings and recommendations are accepted by the Chief Administrative Officers, the investigation is completed, and the Chief Administrative Officers shall promptly notify the Chair and Vice-Chair of the Rules Committee of their determination that a violation of this policy has occurred and any action taken. In addition, the Chief Administrative Officers may implement accommodations, including the alteration of work assignments and schedules, to maintain or promote an appropriate working environment. Both parties shall be informed in writing of the outcome of the investigation immediately.

## III. DISCIPLINE AGAINST AN EMPLOYEE

Five working days following notification of the Chair and Vice-Chair of the Rules Committee, the Chief Administrative Officers shall initiate the procedure for imposing discipline upon an employee found to have violated this policy.

## IV. RIGHTS OF APPEAL OF AN EMPLOYEE

The Chief Administrative Officers' disciplinary decision shall be final. However, a party may appeal this decision to the Chair and Vice-Chair of the Rules Committee by filing written objections with the Chief Administrative Officers within 10 working days of receipt of notification of the decision. If the Chair and Vice-Chair both determine that the accused or the complainant has been denied a fair opportunity to present his or her side, the Chair and Vice-Chair may recommend remedial procedures to the Chief Administrative Officers.

## V. SANCTIONS AGAINST A MEMBER

Upon receipt of findings from the Chief Administrative Officers that a Member has violated this policy, the Chair and Vice-Chair of the Rules Committee shall consult with the Speaker to determine what further action shall be taken. If they decide that formal discipline is appropriate, they may bring the matter before the Rules Committee in closed session.

The Committee may vote to present a resolution to the full House for the formal discipline of a Member. Formal discipline may include reprimand, censure, suspension, or expulsion by the House.

3. If you wish to file a complaint with the DFEH and/or the EEOC, you must do so within one year of the harassment. If a complaint is not filed within one year, you will not be able to do so later.

EEOC (800) 669-4000 TDD (415) 744-7392  
DFEH (800) 884-1684 TDD (213) 897-2840 L.A.  
TDD (916) 324-1678 SAC.

4. No Assembly supervisor or Rules Committee investigator shall attempt to dissuade any person from filing a complaint with the DFEH or the EEOC. On the contrary, an employee who is not satisfied with the internal complaint procedure outlined in this policy may wish to pursue his or her claim with these outside agencies.

## RETALIATION IS PROHIBITED

Retaliation for reporting sexual harassment, filing a complaint, or providing information or assisting in the investigation of any complaint of sexual harassment is prohibited by law and by this policy. Retaliation in any form is prohibited. Examples of retaliation include, but are not limited to, verbal abuse, reduction in pay, termination, refusal to hire, or any other actions which are intended to have a detrimental effect on an employee and are substantially influenced by improper retaliatory motives.

Retaliatory conduct is a separate violation of this policy and state and federal laws and is subject to the same procedures for investigation, discipline and sanctions that are applicable to sexual harassment.

## NO EFFECT ON EMPLOYMENT RELATIONSHIP OR LEGAL REMEDIES

Nothing in this policy shall alter the employment relationship between the employee and the Assembly as set forth in the Personnel Policy Manual for Assembly Employees.

Nothing in this policy shall create any new cause of action or waive, extend or otherwise alter any applicable statute of limitations in state or federal law.

Policy Adopted February 1993; revised July 1995

IF YOU HAVE ANY QUESTIONS

PLEASE CALL NINA RYAN (916) 327-2428

## CALIFORNIA STATE ASSEMBLY

## POLICY AGAINST SEXUAL HARASSMENT

It is the policy of the California State Assembly that sexual harassment in the workplace is prohibited. This policy is intended to prevent sexual harassment of Assembly employees. If sexual harassment does occur in violation of this policy, prompt corrective measures will be taken.

Sexual harassment in the workplace is prohibited by state law, specifically Government Code Section 12940. Detailed regulations interpreting these sections of the statute are found in Sections 7287.6 and 7291 of the California Code of Regulation, Title 2, Division 4. Sexual harassment is also prohibited under federal law by Title VII of the Civil Rights Act of 1964 and the Code of Federal Regulations [29 CFR 1604.11].

The Rules Committee may also impose sanctions or discipline employees for conduct not covered by this policy.

## WHAT IS SEXUAL HARASSMENT?

For purposes of this policy, sexual harassment includes unwelcome or unsolicited verbal, physical or other conduct of a sexual nature when: (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission to or rejection of the conduct is used as the basis for an employment decision; or, (3) the conduct creates an intimidating, hostile, or offensive work environment.

Conduct which violates this policy may take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, or cartoons. Examples of conduct which may violate the Assembly's policy also include requests for sexual favors, conversation containing sexual comments which would be offensive to a reasonable person of the same sex as the complainant, and unwelcome sexual advances. Specific examples of conduct which may be



found to violate the Assembly's Policy Against Sexual Harassment are:

1. Offering employment benefits in exchange for sexual favors.
2. Making or threatening reprisals after a negative response to sexual advances.
3. Verbal sexual advances or propositions.
4. Visual conduct: leering, sexual gestures, lewdness, cartoons, calendars or posters.
5. Verbal conduct: sexually degrading or derogatory comments, epithets, slurs or jokes regarding a person's sex or physical appearance.
6. Written conduct: suggestive or obscene letters, notes or invitations.
7. Physical conduct: unwelcome touching, assault, or impeding or blocking normal movement.
8. Other unwelcome conduct of a sexual nature which is unbecoming of an Assembly official or employee and which creates an intimidating, hostile or offensive work environment.

All complaints of sexual harassment reported to Rules Committee within three years of the harassment will be investigated and immediate and appropriate corrective action will be taken. The Rules Committee's investigation will take into consideration the totality of the circumstances as alleged, including the nature of the unwelcome sexual acts or words, the severity or frequency of the offensive encounters, the total number of days over which all of the offensive conduct occurred, and the context in which the allegedly sexually harassing conduct occurred. Not all conduct which an employee may find offensive will necessarily violate the Assembly's policy. For example, an ordinary social invitation to an employee, made under circumstances and in a manner that would not intimidate or offend a reasonable person of the same sex under the same or similar circumstances, will probably not be treated as sexual harassment by the Assembly, even though the particular employee may find the conduct objectionable.

## WHAT TO DO IF YOU BELIEVE YOU HAVE BEEN SEXUALLY HARASSED

The Assembly Rules Committee has on its staff individuals who are trained to respond to complaints of sexual harassment. If you believe you are being harassed or have been exposed to a sexually hostile work environment, you should bring the problem to the attention of your supervisor or designated staff of the Rules Committee identified below. If you receive a complaint or observe harassing conduct in the workplace, you should notify your supervisor or the Rules Committee immediately. If you are uncertain how to proceed, you should report directly to LORRAINE KING, EEO Counselor (916) 445-8019 or (916) 322-4084 (voicemail) or any one of the following officials:

BOB CONNELLY or MORGAN STAINES, Chief Administrative Officers (CAOs) of the Assembly (916) 445-2131  
FLORINDA SANCHEZ, Deputy Chief Administrative Officer (916) 445-2131  
CHERYL KETLEWELL, Senior Assistant to Morgan Staines (916) 445-2131  
LYNDA ROPER, Benefits Officer (916) 445-8019  
NINA RYAN, Counsel to the Rules Committee (916) 327-2428  
PATTY-JO RUTLAND, Deputy Chief Administrative Officer (916) 445-8019  
E. DOTSON WILSON, Chief Clerk of the Assembly (916) 445-3614

Complaints of sexual harassment should be brought to the attention of your supervisor or one of these individuals as soon as possible after the incident or incidents have occurred. The Assembly emphasizes that you are not required to complain first to your supervisor, especially if your supervisor is the individual who you believe is harassing you.

## INTERNAL COMPLAINT POLICY AND PROCEDURES AVAILABLE TO ALL ASSEMBLY MEMBERS AND EMPLOYEES

The Rules Committee will investigate every complaint of sexual harassment reported to it. The Investigator will be appointed by both Chief Administrative Officers. The complaining and the accused parties will be interviewed. Other employees and witnesses may

also be interviewed if circumstances warrant. In most cases, the Investigator will attempt to resolve the problem informally. If informal resolution is not feasible or appropriate, a formal investigation, with specific findings, may be made. If the complaint is found to have merit, disciplinary action may be recommended.

The Assembly will keep the investigation confidential, consistent with its duty of fairness to the people involved and its duty to prevent harassment from occurring in the future.

In determining whether or not particular conduct violates this policy, the Assembly will take into account such factors as the severity, duration, nature of the conduct, and the totality of the circumstances in each case. In addition, the Assembly prohibits retaliation against any employee for cooperating in an investigation or for making a complaint. As set forth below, such retaliation is a separate violation of the law and of this policy.

## L. INFORMAL RESOLUTION

### A. Informal Resolution Without Rules Committee Investigation

If a complaint of harassment is initially brought to the attention of a supervisor, within 10 working days the supervisor may attempt to resolve the problem informally or may refer the matter to the Rules Committee's EEO Counselor for investigation. If the supervisor has attempted to resolve the problem and either the person raising the issue or the person accused rejects the proposed resolution and requests an investigation, the supervisor shall report both the complaint and the proposed resolution promptly to the Rules Committee. If the supervisor successfully resolves the problem without a Rules Committee investigation, both the complaint and its resolution shall be reported promptly to the Rules Committee.

### B. Informal Rules Committee Investigation

Complaints of harassment which are brought to the attention of the Rules Committee shall be investigated and, where appropriate, effective corrective action shall be taken within 15 working days. The Rules Committee in its sole discretion may attempt to resolve the complaint through informal procedures.

The Committee's Investigator will interview the complaining party, the person(s) alleged to be responsible for the sexual harassment, any other indi-

viduals as appropriate, and may review other evidence. The Committee will keep the investigation confidential to the extent possible. In the event that informal resolution is unsuccessful, either the complaining party or the accused party may request that the matter be handled through the formal procedure outlined below. At any time the Rules Committee may decide that the matter is to be handled through the formal procedure.

## II. FORMAL RULES COMMITTEE INVESTIGATION

### A. Interviews and Information Gathering

The Rules Committee will conduct a formal investigation under the following guidelines:

1. The Investigator, appointed by the Chief Administrative Officers, will review all reasonably available evidence and will interview the person making the complaint, the person or persons accused of harassment, and any other individuals as appropriate.
2. The Investigator will attempt to complete the investigation within 30 working days. The Rules Committee in its sole discretion may extend the time for completion of the investigation, not to exceed 60 working days.
3. The Committee will keep the investigation confidential to the extent possible.
4. The matter may be resolved informally at any time during the formal process.

### B. Findings and Recommendations

At the conclusion of the investigation, the Investigator shall prepare a written statement of findings of fact and recommendations for appropriate corrective action. The following guidelines will be followed where applicable.

1. If the Investigator determines that a violation of this policy has not occurred, the Investigator will so inform the Chief Administrative Officers in writing. These findings will be reviewed by the Chief Administrative Officers. Upon the adoption of the findings by the Chief Administrative Officers, the investigation is completed. Both parties shall be informed in writing of the outcome of the investigation immediately.
2. If the Investigator determines that there has been a policy violation, a written report shall be provided immediately to the Chief Administrative Officers which shall contain sufficient facts to support the finding of a violation and any recommendations by the Investigator regarding corrective action. The discipline may include, but is not limited to, reprimand,





City of Chicago  
Richard M. Daley, Mayor

Department of Personnel

Glenn E. Carr  
Commissioner

City Hall, Room 1100  
121 North LaSalle Street  
Chicago, Illinois 60602-1275  
(312) 744-4000 (Voice)  
(312) 744-2563 (TDD)

DEPARTMENT OF PERSONNEL  
SEXUAL HARASSMENT OFFICE  
PAUL CENTER  
S. STATE ST. - SUITE 330  
CHICAGO, IL 60604-3973

To: Commissioner Caryl Ito  
Chair of the Sexual Harassment Task Force

I am pleased to have the opportunity to submit testimony to you in support of the City of San Francisco's efforts to begin a sexual harassment program within City government. The following testimony outlines the success we have had with such a program in the City of Chicago.

The City of Chicago Policy on Sexual Harassment was adopted by Mayor Richard J. Daley via Executive Order on May 5, 1994. Simultaneously, a Sexual Harassment Office was formally established in the City's Department of Personnel. The Sexual Harassment Office provides centralized investigation and processing of sexual harassment complaints by City workers; a strong preventive education and training program; and outreach to corporate, government, and nonprofit agencies working on the issue of sexual harassment. The Office is currently staffed with one Sexual Harassment Officer, who is an attorney; three full-time investigators, two of whom are attorneys; one full-time secretary/assistant; and several student interns and volunteers. The Sexual Harassment Officer reports to Glenn E. Carr, the Commissioner of the Department of Personnel.

The City of Chicago workplace has over 40,000 employees. The workforce is extremely diverse, and includes workers in white and blue collar settings. Employees work in offices, in shops, out in the field, and on trucks. They work in highly populated and in remote locations, and work on shifts throughout the day and night. Employees of all City departments are covered under the policy with the exception of the Chicago Police Department. While the Sexual Harassment Office assists the Police Department with advice and training, the Police Department's Internal Affairs Division conducts its own internal sexual harassment complaint investigations.

Since its inception, the Sexual Harassment Office has received 57 complaints of sexual harassment in the City workplace. These complaints have been handled through mediation referral to the Center for Conflict Resolution, an outside agency which provides alternative dispute resolution; formal

An American Celebration



investigation; or other intervention strategies. The majority of complaints require formal investigation, including review of relevant documents, witness interviews, and on-site visits where necessary. A Summary Report is prepared at the conclusion of the investigation, which includes an analysis of the evidence, a recommended finding of sustained or unsustained, and recommended discipline where appropriate. Recommended discipline can range from an oral warning up to and including discharge from City employment. Discipline imposed for sexual harassment follows the City's normal progressive discipline procedures, and unionized workers are afforded all rights guaranteed pursuant to union contract.

The Sexual Harassment Office has received tremendous support from the Mayor and City departments. The Office has raised awareness of the issue, provided education programs about the serious costs and consequences of harassment, and provided for investigation by a highly trained, sensitive, and specialized staff. We are extremely proud of the program, and fully support and commend San Francisco's efforts to create a similar program. Please feel free to call on us at any time to share with your City the benefits of our knowledge and experience. Since the inception of the City of Chicago Policy on Sexual Harassment and the Sexual Harassment Office, we have hoped that it would be the first of many similar programs started in cities around the country.

Respectfully submitted on  
February 14, 1996

*Andra Gomberg*

Andra Gomberg, Esq.  
Sexual Harassment Officer  
City of Chicago

February 19, 1995

Commission on the Status of Women  
City & County of San Francisco  
Attn: Ann Lehman  
Fax- (415) 252-2575

To whom it may concern,

I am writing to inform you of our experience developing a sexual harassment policy and office in Chicago for its city employees.

My name is Barbara Engel and I am a mayoral appointee to the City of Chicago Women's Council (the closest we have to a commission on the status of women). I was chairperson of the committee that drafted the city's sexual harassment policy and successfully promoted the development of the sexual harassment office.

Three years ago I convened a multi-disciplinary committee with representatives from government, the private sector and non-profit advocacy and service organizations. We involved corporation council (the city's legal department), the Chicago Commission on Human Relations, the city's personnel department, women's employment organizations, mediators, anti-violence advocates, sexual harassment attorneys, academicians, etc. We deliberated for a year to develop a fair policy and formulate the design of an office specifically addressing sexual harassment. These efforts had the full and enthusiastic support of our mayor and top administration.

Prior to the creation of this policy and specialized office very few complaints of sexual harassment were filed. We were aware that the very low number of complaints was not reflective of the reality of the workplace but was most likely indicative of employee's lack of trust that the existing system could adequately investigate their complaints or address their concerns. The policy reflects our commitment to multiple approaches to resolving sexual harassment by emphasizing prevention and training, creating a fair mediation process for carefully screened appropriate cases (mediated gratis by the Center for Conflict Resolution, a highly respected non-profit organization) and a formal investigation procedure. The policy and office were designed so that the sexual harassment officer and her staff of investigators have joint responsibilities for providing sexual harassment prevention training to the work force as well as investigating cases and recommending disciplinary procedures.

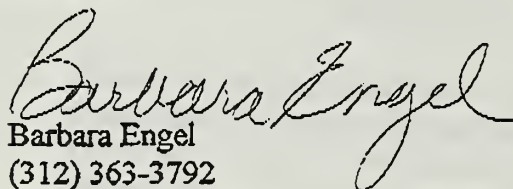
Since the inception of the office the numbers jumped from less than 3 in a 2 year period to 55 in the first year and a half. We are heartened that now trust is growing and



both women and men are applying to the office for help in addressing untenable work environments. Mediation has worked in a number of cases, many cases have needed full investigations and several have resulted in dismissals while others have been determined to be unfounded. And throughout city departments, city workers are being educated, and challenged to help make their workplaces free of harassment. This comprehensive approach, balancing formal investigations with pro-active outreach and training on preventing sexual harassment is, in our opinion, better accomplished through a specialized unit. The sexual harassment office is now staffed by an Administrator/Attorney who supervises and implements training, investigations, and creates a responsive and confidential system. She has 3 investigators (2 of whom are attorneys) one administrative assistant and several law and graduate student interns.

The city's top administration, the city employees who use it and the larger community have all given unqualified support to this land mark project. We are proud of this effort and recommend that San Francisco consider our design as you fashion a response to sexual harassment in your city's workplaces. If I can be of further help please feel free to call or fax me.

Sincerely,



Barbara Engel

(312) 363-3792

(312) 363- 1555 Fax

# City and County of San Francisco

# Department of Public Health



Sandra R. Hernández, M.D.  
Director of Health

January 17, 1996

Caryl Ito, Commissioner  
Commission of the Status of Women  
Sexual Harassment Task Force  
25 Van Ness Avenue, Room 130  
San Francisco, CA 94102

Dear Commissioner Ito: *Caryl*

Thank you for the draft copy of The Implementation Plan by the Sexual Harassment Task Force. I appreciate the opportunity to forward my comments to you and the Commission.

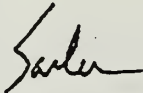
The Department of Public Health (DPH) supports the Implementation Plan in concept. I note, in particular, the appropriateness of a uniform sexual harassment training program, a centralized reporting system, and the establishment of investigator training and standards city-wide for sexual harassment complaints.

DPH's concern with the new proposal is the separation of sexual harassment complaints from other issues that surround workforce diversity. I would suggest that our experience with investigating and mediating complaints illustrates a greater need for diversity awareness training and additional skills in conflict resolution, rather than extracting sexual harassment and featuring it as a issue that exists in isolation.

Currently, the Department's EEO/Affirmative Action Office is assigned the responsibility of handling discrimination complaints, which includes sexual harassment. I think you and the COSW would agree that the Unit has done an excellent job of investigating gender-based complaints and responding to specific incidents of alleged discrimination, thus allowing the Department and its employees to maintain a discrimination-free work environment. The effectiveness of this Unit and its proven capabilities is essential to this Department's on-going commitment to this vital effort. Therefore, creating a new unit of seven staff members to investigate sexual harassment complaints may prove counter productive to overall affirmative action activities at DPH.

I regret that I am unable to appear at the public hearing scheduled for January 18th. However, Gloria Louie, the Health Department's EEO/AA Programs' Manager and members of her staff will be in attendance. Please feel free to direct additional questions to Ms. Louie, her staff or back to my office. Again, thank you for the opportunity to voice my comments and concerns.

Sincerely,



Sandra Hernández, M.D.  
Director of Health

cc: Gloria Louie, DPH-EEO/AA Programs





INTERNATIONAL  
FEDERATION OF  
PROFESSIONAL  
AND  
TECHNICAL  
ENGINEERS

LOCAL 21  
AFL-CIO

An Organization of  
Professional and Allied  
Technical Employees

ORPHEUM  
THEATER BUILDING  
1182 MARKET STREET  
ROOM 425  
SAN FRANCISCO, CA  
94102-4921

(415) 864-2100  
FAX: (415) 864-2166

January 4, 1996

Ms. Sonia Melara, Executive Director  
Commission on the Status of Women  
25 Van Ness Avenue  
San Francisco, CA 94102

**Subject: Meet and Confer**

Dear Ms. Melara:

We are in receipt of the notice for a joint Commission meeting for January 18th meeting regarding the Sexual Harassment Task Force Implementation Plan. Please be advised that this meeting does not constitute nor substitute meet and confer. We are still awaiting a response regarding our meet and confer and information requests.

Please give me a call so that we may arrange to meet.

Sincerely,

*Linda Jofuku*  
Linda Jofuku  
Sr. Representative

Attachment

cc: Patty Chang  
Caryl Ito  
Ann Lehman  
Board of Supervisors Government Efficiency and Labor and  
Budget Committees  
Wendell Pryor  
Geoff Rothman  
Al Walker  
Ed Lee  
Frank Anderson  
David Novogrodsky







INTERNATIONAL  
FEDERATION OF  
PROFESSIONAL  
AND  
TECHNICAL  
ENGINEERS

LOCAL 21  
AFL-CIO

An Organization of  
Professional and Allied  
Technical Employees

ORPHEUM  
THEATER BUILDING  
1182 MARKET STREET  
ROOM 425  
SAN FRANCISCO, CA  
94102-4921

(415) 864-2100  
FAX: (415) 864-2166

December 26, 1995

Ms. Sonia Melara, Executive Director  
City and County of San Francisco  
25 Van Ness, Room 130  
San Francisco, CA 94102

**Subject: Implementation Plan of the Mayor's Task Force on Sexual  
Harassment and Request For Meet and Confer**

Dear Ms. Melara:

I am in receipt of Caryl Ito's December 11th letter. I have made phone calls to you and returned phone calls to Ms. Ann Lehman of your staff. However, since our jobs are not conducive to sitting by the phone all day we have not been able to connect with anyone except "voicemail." I would have preferred to have a conversation with you rather than voicing our concerns in writing but the correspondence from Ms. Lehman and Ms. Ito require that a written response.

Insufficient Notice.

The way in which the "Implementation Plan" and "Civil Service Rule Three Changes" were handed to us at the last Employment and Economic Committee meeting did not provide sufficient notice. Ms. Lehman called me one day prior to ask if I could meet with her one-half hour before the Committee meeting. Given such short notice we could not meet with her. Ms. Lehman and Ms. Ito may not be aware that this specifically affects our member's work.

Cart Before the Horse.

With the advent of Proposition B - Charter Section 8.409 there are "meet and confer" requirements that include over 32 MOUs, not just Local 21's. I have spoken to Al Walker, Executive Officer, Civil Service Commission; Frank Anderson, Contract Compliance Officer II, Human Rights Commission; Geoff Rothman, Acting Director, Employee Relations Division; and Supervisor Barbara Kaufman. Each of the aforementioned individuals share our concerns regarding the path of the "Implementation Plan." Rather than "bulldozing" forward since the cart is before the horse—back the horse up a bit and have some meetings before the January 1996 Board of Supervisors hearing.

Budgetary Landmine.

We have been meeting with DHR Director, Wendell Pryor regarding staffing issues in this Department. The Department is woefully understaffed without assignments and support to cover mandated exam and classifications requirements. When the Department has insufficient funds and is requesting at least a \$400,000.00 supplemental to get existing work done it doesn't seem prudent to create more bureaucracy and more costs (another \$400,000.00 to create a sexual harassment unit) in the Department's Equal Employment and Opportunity Unit. Possibly, reassignment of staff to specific sexual harassment investigative duties may work. However, the cart is still before the horse. DHR needs more staff just to handle what workload exists now.

With the advent of Charter Amendments; Proposition B, Proposition E, Proposition F and Proposition L, less government not more has been the trend. In a time where there will be severe budgetary cuts, particularly in the general fund it may not be wise to ask for close to half a million dollars for a new program.

Request For Information.

It is my understanding that the City Attorney's Office has an Opinion regarding the

Page Two--  
Letter to Sonia Melara  
December 26, 1995

implementation of the plan to the Commission. We request a copy of this Opinion prior to our meet and confer.

Having Concerns Does Not Mean Lack of Support.

We have a long civil rights advocacy history and have lent our support to women who have experienced harassment and discrimination before the Commission on the Status of Women existed. We worked with Judith Klain and Sharon Johnson in helping to develop the very study from which your plan is based.

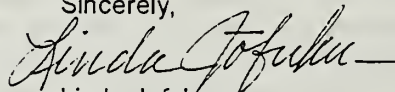
Ms. Lehman knows very well from our conversation at the Employment and Economic Committee that we wish to meet and confer on the issue. It is not helpful for her to attempt to meet with another Local 21 staff member, JoAnne Lawrence without notifying me. I found out about the meeting with Ms. Hillary Flynn from JoAnne the day of the meeting. This puts our staff member and Ms. Flynn in an awkward situation. If Ms. Lehman finds it uncomfortable to deal with me directly, she needs to speak to me about it and not skirt the issues.

Recommendations

Rather than introducing the implementation plan as written we suggest that January 1996 be declared "sexual harassment awareness month" by resolution of the Board of Supervisors where "ideas" could be introduced to resolve sexual harassment issues throughout the City and County. If this tack is taken then you will be aware of the pitfalls of the implementation plan before you are stuck "knee-deep." I believe that the ideas are nice. However, the implementation of what you have proposed has problems.

Lastly, we are willing to meet with you, Ann, Caryl, or other members of the Commission staff to discuss this. Please understand that our schedules are tight however we will meet with you at a mutually convenient time.

Sincerely,



Linda Jofuku  
Sr. Representative

cc: Caryl Ito  
Patty Chang  
Ann Lehman  
Supervisor Barbara Kaufman  
T.J. Anthony  
Ed Lee  
Frank Anderson  
Al Walker  
Wendell Pryor  
Dorothy Yee  
David Novogrodsky  
Jo Anne Lawrence

# EQUAL RIGHTS ADVOCATES

1663 MISSION ST., STE.550 SAN FRANCISCO CA 94103 415/621-0672 FAX: 415/621-6744

Hand-delivered

January 18, 1996

Ms. Caryl Ito  
Lorraine T. Boeman and Associates  
676 Miramar Avenue  
San Francisco, CA 94112

Re: Draft Implementation Plan by Sexual Harassment Task Force,  
City and County of San Francisco, January 1996

Dear Ms. Ito:

I have reviewed the Draft Implementation Plan of the Sexual Harassment Task Force for the City and County of San Francisco. I appreciate the opportunity to submit comments regarding the Plan. I am sorry that I will not be able to attend the January 18th hearing myself, but Erin Day, a law clerk in my office will present my comments at the hearing.

As the managing attorney of Equal Rights Advocates, I have long been involved in efforts to eliminate sexual harassment in the workplace. I have represented women in sexual harassment litigation, including the case brought by Louette Colombano against the San Francisco Police Department. I have authored legislation and testified before the California Legislature on bills addressing sexual harassment and before the San Francisco Board of Supervisors on the original sexual harassment ordinance introduced by former Supervisor Nancy Walker. My office has presented innumerable workshops to non-profit groups on prevention of sexual harassment and to women and women's groups on their right to be free from sexual harassment. We know firsthand how difficult it is to eliminate sexual harassment and how complicated it is to address these issues.

I commend the Task Force for its Draft Plan. It attempts to streamline and modernize the procedures in San Francisco in a way that serves the interests of women, the City's workers, and the community at large.



Especially important is the proposed extension to one year of the current 30 day deadline for filing a complaint. A longer time to file a complaint provides women with a much more realistic time line for taking action following a harassment incident. A thirty day deadline is much too short because it requires both that victims of harassment recognize that the behavior they have experienced is illegal or against City policy and that they make the decision to pursue a complaint in a very short period of time. Not only is this unrealistic from the victim's point of view, but a 30 day time line appears designed to eliminate legitimate complaints rather than eliminate harassment itself. Any enlightened sexual harassment policy should be designed to eradicate harassment, not to protect the City from investigating complaints.

Any fears that the longer filing period will promote stale claims is unfounded. The one year filing period is consistent with California's statutory filing period under the Fair Employment and Housing Act. Thus the complaint can be pursued legitimately through the state's legal system for one year. Moreover, different state and local deadlines are confusing to victims of harassment who are not versed in the intricacies of the legal system.

Furthermore, a short time frame for filing defeats the goal of attempting to resolve problems internally. If a victim's only recourse is to file with a state or federal agency, complaints will be filed with these agencies. Outside investigators will be brought in, solutions will be imposed by federal or state government agencies (or the courts), and the City will lose control of the process.

Equal Rights Advocates also supports the Task Force's creation of formal and informal filing procedures. Most large employers today recognize the need for taking action when there is any reason to believe illegal sexual harassment might have taken place. This approach serves many policy objectives. First, it protects employers who are required under California and federal law to take immediate corrective action when they "knew or should have known" that there was inappropriate harassment. Requiring a formal complaint to be filed before any investigation could be undertaken would shut the door to gaining information. This would demonstrate an intention to avoid that knowledge and could be interpreted by a court to thwart the "knew or should have known" standard. Second, if the City's desire is to end harassment, it should want to find out about any inappropriate activity with or without formal complaint so the problem can be ended. Any attempt to limit information about harassment is counterproductive to this goal. Third, acceptance of informal complaints is a recognition of the reality of women's lives. Sexual harassment disempowers women, interfering with victims' lives. It affects self-esteem and productivity. Retaliation against those who bring these issues to public scrutiny is common. An informal process allows the City to learn about potential management problems and inappropriate workplace behavior to a much greater extent than a process which requires formal complaint filing.

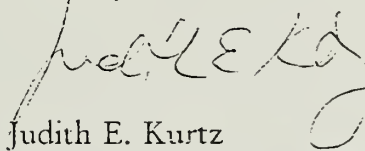
Ms. Caryl Ito  
Lorraine T. Boeman & Associates

January 18, 1996  
Page 3

In closing, I would briefly like to mention ERA's support for the Task Force's desire to centralize policies. This will provide all employees the same protections and end confusion about the rights afforded employees in different City departments. We also believe that the tracking system proposed by the Draft report will assist the City in its efforts to eliminate sexual harassment.

Thank you for the opportunity to comment on the Task Force implementation plan. It will undoubtedly serve as an excellent tool for eliminating problems in the workplace which not only adversely affect victims of harassment, but reduces productivity of City workers. Good policies and practices will also serve as a role model for the community.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judith E. Kurtz".

Judith E. Kurtz  
Managing Attorney

/dt





City and County of San Francisco  
Department of Public Works  
Personnel Administration

875 Stevenson Street, Room 470  
San Francisco, CA 94103  
(415) 554-6000  
FAX 554-6025

January 18, 1996

THROUGH: Ms. Ann Branston   
Acting Director, Public Works

 Mr. James P. Horan  
Sr. Departmental Personnel Officer

Ms. Ann Lehman  
Commission on the Status of Women  
25 Van Ness Avenue, Room 130  
San Francisco CA 94102

Re: Recommended Changes to Civil Service Rule 3 and Proposed Sexual  
Harassment Policy

Dear Ms. Lehman:

I have received the copy of the draft implementation plan on sexual harassment and proposed changes to Civil Service Rule 3 and am providing the following observations and comments. These comments take into consideration both the perspective of myself as a professional in the area of equal employment opportunity, as well as those of DPW's Human Resources and administrative staff with respect to the plan's potential impact on its personnel activities.

In general, the Department of Public Works wholeheartedly supports the aim of creating a work place which is free of sexual harassment and one in which there is "zero tolerance" of harassment by managers and supervisors. Although the department agrees in principle with many of the recommendations, there are some areas in which there is considerable concern regarding other recommendations due to their potential impact on the day to day management of human resources of the Department of Public Works.

The Department also endorses the proposal to standardize investigative procedures, investigator qualifications, record keeping, disciplinary actions for offenses, and training so that they are uniform throughout the City.

Additionally, the Department is in agreement regarding the accountability of managers and supervisors for enforcing and implementing standards of prohibitions



against sexual harassment through various devices such as performance appraisal reports or determining promotability of persons who do not adhere to these standards. The recommendation that counseling services be provided to victims of sexual harassment is extremely important since there is currently a paucity of counseling resources available to persons who have endured harassment in the workplace.

Areas in which there is disagreement or concern with the methodology for effecting a sexual harassment free work environment are as follows: (References are to specific page and section of the proposal.)

Page 4, para. A and C of Policy Statement: It is unclear why sexual harassment, as a form of discrimination, should be singled out from other forms of discrimination for a separate investigative/prevention/training unit; and different methods of complaint filing, investigation and resolution. The amount of staff and monetary resources which would be allocated for the creation of a Centralized Sexual Harassment Unit appears to lessen the importance of complaints filed on other protected bases and may even detract from the ability of DHR investigators to address complaints filed for other than sexual harassment. It would seem that any resources and efforts to increase prevention and investigative capabilities would be better served through an economy of scale by applying these remedial actions toward all forms of discrimination. It is this department's recent experience that litigation has been focused on claims related to alleged violations of the Americans with Disabilities Act and we would like a proportionate amount of resources to be allocated to addressing these and other problem areas.

Page 5, para D. Conflict of Interest. This area is of concern since recent case law has stated that romantic relationships between supervisors/managers and subordinates does not necessarily constitute sexual harassment. To require the reporting of such relationships under the sanction of disciplinary action may also be in conflict with the Administrative Code regarding City Employee's Sexual Privacy Ordinance.

Page 7, para B. Anonymous Complaints: Although this department has in some instances attempted to pursue anonymous leads of allegations of sexual harassment, it would be very problematic to establish a formal procedure for allowing investigations on all anonymous charges. The very basis of the complaint and investigative process is predicated on specific charges, interviews of the complainant, and the development of evidence in support of, or dismissal of charges. Anonymous complaints do not provide this opportunity and also deny an accused person due process rights by never being able to confront his/her accuser in an administrative/disciplinary hearing. In some instances, anonymous charges have been brought by disgruntled employees who have been disciplined or discharged and are attempting to seek retribution through this device. It also seems that allowing anonymous charges allows for "fishing expeditions" by investigators who would be authorized to investigate accusations of sexual harassment. (Note: the task force's terms "potential or actual" are unclear)

Page 9 - Procedures Summary. Reference to Departments investigating themselves. It is stated in this section of the Procedures Summary that the current decentralization of investigations gives the appearance of a conflict of interest since departments are investigating themselves. Although some persons may perceive this process as an apparent conflict of interest, the same circumstance would exist even if a Centralized Sexual Harassment unit, under the auspices of the Department of Human Resources, conducted the investigations. Currently, the courts view the City and County of San Francisco, and the affected department as the employer and respondent in lawsuits. A centralized investigative unit would also be in the position of investigating "themselves" since, as an agency of the CCSF, it would investigate allegations of harassment for their own employer. This claim has occasionally been alleged with respect to the DHR EEO Unit under the current investigative procedures and would not change with the creation of a separate Sexual Harassment unit.

More importantly, however, the federal EEOC Guidelines and various court cases have established that an "employer has an affirmative duty to investigate complaints of sexual harassment and to deal appropriately with the offending personnel; "failure to investigate gives tacit support to the discrimination because the absence of sanctions encourages abusive behavior"). When an employer receives a complaint or otherwise learns of alleged sexual harassment in the workplace, the employer should investigate promptly and thoroughly." (See EEOC Compliance Manual, ¶ 3114, Subj.: Policy Guidance on Current Issues of Sexual Harassment.) In *Barrett v. Omaha National Bank*, an employer was able to demonstrate an acceptable defense by conducting an internal investigation and providing remedy when it first became aware of the sexual harassment of an employee. Obviously, any appropriate remedial action which can be taken as a result of an internal investigation would override any apparent conflict of interest in which an employer investigates itself. (In fact the EEOC Guidelines on sexual harassment recommend this.) It is DPW's opinion that the current mechanism of appeal to a panel would allow for a review of the investigative procedure and whether a determination was truly based on evidence or was influenced by the conflict of interest. Also, under current arrangements, both DHR and COSW have oversight authority regarding departmental investigations.

Under the current proposal, the ability to investigate and provide remedy at the lowest level (i.e. the affected department) would be removed by limiting a supervisor's (or EEO Staff) corrective action to merely reporting the allegations to the Centralized Sexual Harassment Unit. This proposed arrangement would effectively take away a department's ability to demonstrate a rigorous investigation and provide appropriate remedy when it receives an allegation of sexual harassment directly from an employee, as an affirmative defense. Since the CCSF and the respondent department are the entities named in any lawsuit, the department should not be denied this by merely being left the option to report the allegations to the Centralized Unit and to not investigate the matter itself.

Page 10, Procedures Summary - Time Lines. With respect to the proposed one year period for filing a sexual harassment complaint, this again seems to single out sexual



harassment for a procedural arrangement which differs from other forms of discrimination. Other very problematic concerns which are raised are related to the effect this would have on enforcing disciplinary matters on any person found to have perpetrated sexual harassment more than one year later. This arrangement would be contrary to grievance procedure language in some existing labor union contracts. Logistically, it may create problems since personnel who may have been involved in any alleged sexual harassment as either witnesses, supervisors, or perpetrators may no longer be with the department.

Page 20 - Budget - It is stated in the second paragraph that "the centralization of sexual harassment issue will ultimately prove cost effective by preventing sexual harassment from occurring, eventually reducing the number of incidents, and thereby decreasing costs associated with litigation and settlement. For example, a recent court case held the employer free from liability for the behavior of its worker since the employer took preventive and immediate corrective action when an incident occurred." As stated above, it is for this very reason which DPW believes that it should retain the ability to investigate and provide remedial action, particularly when it will be the operating department (i.e., DPW) which will be named in the lawsuit and not the Centralized Unit.

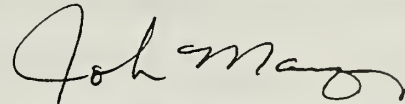
Page 21 - Option II: Per Employee Assessment. With respect to funding a new Centralized Sexual Harassment unit, it is proposed that departments be assessed a "per employee" fee for the fiscal years '96 through '99, or that monies currently appropriated in individual department's training funds be partially allocated to the new unit to cover costs. Within the DPW, training monies have been approved through the budgetary approval process and are earmarked for particular uses based on their costs. For example, DPW work orders funds to DHR for training purposes on various topics. If this plan were to be implemented, DPW would be willing to discuss funding arrangements on a case by case basis. Additionally, approximately two-thirds of DPW's managerial and supervisory staff have been trained in sexual harassment by either DPW's EEO Manager or by outside consultants during the past two years and would not immediately necessitate retraining. Any assessment paid by DPW based on an employee count should reflect this fact.

Lastly, it is proposed that decentralized EEO staff be provided by "large" City departments for temporary assignment to the DHR Unit for one month over two years. The EEO unit for Public Works consists only of one 1231 Associate Manager of EEO Programs and no staff, and the absence of the manager from his regular duties would have a tremendous adverse impact on the day to day operations of this office. Other routine duties such as discrimination investigations, responses to EEOC and DFEH complaints, ADA training, recruitment, Affirmative Action Plan preparation and monitoring, employee/managerial counseling, etc., would not be performed during these absences. It would seem that any funding for these DHR positions should be approved on a permanent basis through the same approval and appropriation process which funds any permanent position throughout the city. This would have the benefit of removing the reliance on temporary funding schemes from other departments and also provide permanency to whatever staffing arrangement is ultimately determined to be necessary.

In summary, this department wishes to restate that the goal of standardizing the investigative process, training, record keeping methods, and establishing a work environment free from discrimination, is a highly desirable one. However, this goal should encompass all forms of discrimination and can be attained under the current framework of the decentralized mechanism as it now exists.

Thank you for your consideration in this important matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Marquez".

John Marquez  
Manager, EEO Programs, DPW

cc: Mr. William Lee, CAO  
Members of the Commission on the Status of Women  
Members of the Civil Service Commission  
Local 21  
File





**TESTIMONY OF GINNY VIDA RE: NEW SEXUAL HARASSMENT  
PLAN FOR THE CITY AND COUNTY OF SAN FRANCISCO**

**Thursday, January 18, 1996**

My name is Ginny Vida, and I currently serve as Investigator/Auditor for the San Francisco Ethics Commission. However, my comments today are offered solely on my own behalf and not on behalf of Ethics Commission, since my testimony is based on my previous experience as Director of the Office of Sexual Harassment Issues at the New York State Division of Human Rights, where I served from July 1993 to September 1995.

I am pleased to offer comments at today's joint commission meeting on a proposed Implementation Plan for new sexual harassment policies for the City and County of San Francisco. I think it may be useful to this discussion for me to tell you about the New York State Office of Sexual Harassment Issues, because it illustrates the value of having a central office with specially trained staff to receive, mediate and investigate sexual harassment complaints, and to educate employers and employees about sexual harassment law.

The Office of Sexual Harassment Issues was funded by Governor Mario Cuomo and the New York State Legislature, and opened its doors to the public in October 1993, following a recommendation by the Governor's Task Force on Sexual Harassment. It was established as a unit of the State Division of Human Rights, which already had authority to address sexual harassment complaints throughout the state of New York, but no specialized

office to handle them. Over 1,000 sexual harassment complaints had accumulated since Anita Hill's testimony in 1991 before the Senate Judiciary Committee on the nomination of Clarence Thomas to the U.S. Supreme Court. Human rights agencies throughout the country experienced a similar surge in these complaints following Ms. Hill's testimony.

When I left my position with the Office of Sexual Harassment Issues last September, our six investigators were processing between 50 to 60 cases a month through conciliation and mediation, and through formal investigation, and they are still producing those numbers. The staff received several special trainings in sexual harassment law and legal precedents from the Division's General Counsel and the Division's Director of Training. These training sessions were very helpful to our staff in developing fair and efficient procedures for handling complaints, and for prioritizing the large number of complaints on file. One very useful tool used throughout the Division to expedite complaints was the two-party conference, which the investigator assigned to the case would conduct in the presence of, and with the participation of, the opposing parties; and a second useful tool was the Division's computer-based case tracking system, which allowed us to keep track of every investigatory event associated with each case, and generate all kinds of useful data about our caseload.

As the months passed, the staff gained expertise in resolving complaints through conciliation and mediation, and in zeroing in on essential information needed to recommend a determination of probable cause or no probable cause. Both the quality and quantity of our settlements and investigations

improved with experience. And because we were a closely knit staff that communicated on a daily basis about these cases, we had a consistent standard for reaching determinations. This was very helpful because there are many factors to be taken into consideration in making these decisions.

I think the proposal under consideration today, to establish a centralized office to address sexual harassment complaints for the City and County, is an excellent one, for all the reasons detailed in the Implementation Plan: an office that provides a consistent standard for all cases, expert and impartial staff to mediate and investigate; and the visibility of a separate office that sends an unmistakable message to the entire workforce that sexual harassment will not be tolerated, that complaints will be addressed promptly; that sexual harassment, where identified, will be stopped and appropriate and effective remedies provided; that tough disciplinary measures will be taken in case of retaliation.

This plan is not only in the best interests of the employees, but also of the City and County's budget. If an employer takes reasonable measures to prevent sexual harassment and to respond appropriately to complaints, that's a defense that can be used if the case is filed with an outside human rights agency such as the EEOC or the State Department of Fair Employment and Housing. Moreover, if the City and County have a credible office handling these complaints, there is much less likelihood that complainants will feel the need to pursue their complaints beyond the City and County's own enforcement system. I also think that, although this office will not have the authority to impose monetary damages, disciplinary action can be an effective



deterrent to the harasser if it's used effectively. In this tight job market, the ultimate threat of losing one's job should be meaningful.

Early intervention in resolving complaints is also very critical to preventing job loss among complainants--and alleged harassers as well. Most of the 1,000 complainants who had filed with the Division of Human Rights in New York State had already lost their jobs by the time we were able to get to their cases. Many who had legitimate complaints either resigned or were terminated if they complained. An central office that is appropriately staffed can save jobs through early intervention. This may include harassers, who with early intervention can be stopped before their conduct rises to a level warranting dismissal.

I would like to say one final word--about false charges. Once when I was a guest on a radio call-in show in upstate New York, someone called in to say that our office had been set up to conduct a witchhunt. The caller claimed that innocent people were losing their jobs because disgruntled employees had brought false charges against them.

I do think it's possible that some employees who are disciplined or fired for poor performance might bring false charges against a supervisor. But I also think a well-trained staff that is committed to fairness and conducts a rigorous investigation can effectively sort through that. I always said in my speaking engagements, and it was true, that we were not advocates for the complainants; we were advocates for the law. We were not in business to take respondents to the cleaners. We were there to enforce the law. Sexual

harassment is against the law. And its victims fully deserve the protection of the law and the best prevention and enforcement mechanisms possible.

Likewise, those who are accused deserve not to be penalized unless the evidence is truly compelling.

The training provisions of the Implementation Plan are also commendable and I believe they will work well in practice. It is particularly important that supervisors be trained, since the law provides for greater liability for their misconduct, as it should. Ultimately, all employees should receive training. There is a lot of confusion about which specific behaviors qualify as sexual harassment, and which do not. The sooner everyone is clear about this, the better.

This Implementation Plan, in my view, is a carefully thought out and reasonable attempt to deal with a critical issue of our day. I hope the City and County will choose to authorize its establishment as soon as possible. Thank you for inviting me to share my thoughts with you on this very important proposal.

**Testimony**  
**Sexual Harassment Public Hearing**  
**January 18, 1995**  
**5:30-8:00 pm**

The following is a summary of the testimony given at the public hearing. The hearing was taped and can be listened to at the Commission on the Status of Women office or for a small fee you may purchase a copy of the tapes.

**Supervisor Kevin Shelley** opened the evening with welcoming comments extended to the Human Rights Commission, Commission on the Status of Women, Civil Service Commission and all others present. He introduced Commissioner Caryl Ito, Chair of the Sexual Harassment Task Force and facilitator of the evening's event. Supervisor Shelley stated that the city "*stands ready to implement fully the various recommendation which will come out of this hearing this evening.*" He extended thanks to the Task Force members for all their hard work and introduced Patricia Chang, Chair of the Commission on the Status of Women.

**Commissioner Patricia Chang** made welcome comments to all present. She emphasized that we need to work as a team towards the eradication of sexual harassment in the work force. Karen Clopton was introduced as President of the Civil Service Commission. Commissioner Clopton introduced Vice President of the Civil Service Commission, Adrienne Pon.

**Commissioner Karen Clopton** recognized the participation of the many women of color at the public hearing. She stated that the leadership of the Civil Service Commission supports the recommendation of the Task Force, "*especially centralized office procedure.*" Commissioner Clompton expressed that this is "*very important*", it was "*discussed at length*" and the commissioners feel that this is "*really the most fair and safe environment for the reporting of sexual harassment complaints.*"

**Commissioner Mary Gomez Daddio**, the vice-chair of the Human Rights Commission expressed a "*sincere and heartfelt support*" for the work of the Task Force and the COSW. She recognized Ed Lee, the Executive Director of HRC.

**Commissioner Patricia Chang** introduced all members of the Commission on the Status of Women.

**Commissioner Patricia Chang** also recognized Al Walker, Director of the Civil Service Commission, Wendell Pryor, Director of the Department of Human Resources and Sonia Melara, Director of Commission on the Status of Women.

**Commissioner Patti Chang** demonstrated the presence of sexual harassment in the workforce by stating that sexual harassment claims filed with the federal EEOC Commission increased more than 123% within three years after the Hill/Thomas Hearings of 1991. Nearly 90% of Fortune 500 Companies reported receiving complaints of sexual harassment. In many states there is virtually no protection against sexual harassment for small business employees. In San Francisco



complaints increased 62% between 1988 and 1993, dropping most recently because employees fear retaliation and do not file out of lost faith in the system. Commissioner Chang acknowledged the SHTF and the Staff of COSW, Hillary Flynn and Ann Lehman and Commissioner Caryl Ito. The meeting was turned over to Commissioner Caryl Ito.

**Commissioner Caryl Ito**, Chair of Sexual Harassment Task Force, welcomed everyone and gave special thanks to Barry Chersky and Commander Mindy Pengel. She also acknowledged Kate Favetti, Mary Smith, Esther Leong, Francis Pinnock and Judith Klain. Commissioner Ito recognized, Lauri Irving from Tom Ammiano's Office. Commissioner Ito recognized the role of women in leadership positions, like Commander Pengel, who make it easier for all of us when they set the example of "zero tolerance" of sexual harassment in the workforce. She stated that the work of the Task Force is about how we can live together and respect each other. San Francisco has an opportunity to be a model city in this area. Commissioner Ito gave a small historical account of how the Task Force came together based on the Rossien report of August, 1994. She highlighted some key points. She also stated that we need to stay focused on changing the culture of San Francisco City and County workforce through training so we can avoid the high profile cases which have been news lately. Commissioner Ito outlined of how the evening will work.

**Mayor Willie Brown:** The Mayor thanked everyone and spoke about the policy used by the State legislature in 1994. It included a mandatory training for every single person who is associated with the legislature in any capacity. The Mayor stated that the California state legislature had *"a clear set of guidelines, rules, regulations and procedures that gave everyone full notice, full access and full protection in the process of the allegation or any claim."* The Mayor stated that time lines were important to be recognized and followed so that the process did not linger unnecessarily, cases need to be dealt with as much confidentiality as possible and after resolution, *"then appropriate publication of the total contents of the process"* should be made available. *The Mayor further stated that "any decision by the authorities involved, must be subject to appropriate publication for instructional purposes for other individuals that they may draw."* The Mayor addressed the importance of appropriate penalties and corrective action by stating, *"there must also be the kind of penalties that would even remove the perpetrator from the position, or any association with the unit, against whom the allegation is made as well as the individuals who were in the supervisory position..."* The Mayor stressed that the CA legislature has a *"zero-tolerance" standard and a swift and speedy resolution mechanism."*

**Commissioner Caryl Ito** thanked the Mayor for his leadership and commitment and comments for the night. She looks forward to working with him and his staff in this area.

**Mayor Willie Brown:** In response, the Mayor stated, *"Your Task Force, and the efforts that you made are absolutely necessary and I would like nothing better than to require all department heads to comply with the recommendations flowing from your efforts. Thank you very much."*

**Judith Klain**, former employee of COSW, gave a brief history of how the city has dealt with sexual harassment in the past, beginning before the Achtenberg Hearings on Sexual Harassment of 1991. Ms. Klain provided the following statistics researched and presented at the Achtenburg



Hearings: *"less than 9% of women who experienced sexual harassment reported it and more than 90% of the women who did report experienced retaliation."* She also gave a brief history of how the Rossien study and report was funded and

COSW's role. Ms. Klain also relayed her personal experience with sexual harassment as a woman in the trades.

**Marcie Seville**, the Director of the Women's Economic Rights Clinic at the Golden Gate University of Law and a professor at this school, was part of the research team of Merrick T. Rossein and Associates. Ms. Seville gave a brief account of the history of how the Rossein research was conducted in 1993-1994. Trainings, procedures, investigations and policies were researched from a limited number of departments throughout the city; the departments which have their own EEO offices in addition to a few others. Ms. Seville stated that the current city process is *"extremely complicated"* as there are many sources dictating policies: the Civil Service Rules, Proposition L (which created the Department of Human Resources), administrative codes and many MOU's with the unions. Ms. Seville stated that *"no one had ever worked through how these different procedures would be meshed together."* Ms. Seville expressed the concern that *"relatively few people within the departments had a good grasp of the process"* to file a complaint. The *"most disturbing"* discovery for Ms. Seville is the *"disparity of how things were handled from department to department"*. Whether something was *"addressed effectively...was total haphazard depending on the luck of the draw and depending on what department you were in."*

*Ms. Seville stated that this discovery was the primary basis for recommending a uniform policy and centralized procedure. Complainants need to have "a concrete notion of where to go and how to go about it."*

**Amy Oppenheimer**, an Administrative Law Judge with the State of California and an expert in sexual harassment, has testified three times in support of changing the city's sexual harassment policy and procedure. Ms. Oppenheimer noted that there has been much good will to make change, in the past, but not enough action. This lack of change is even more clear when contrasted with the policies of other large employers in California. Without centralization of this issue, *"the left hand does not know what the right hand is doing"*. Ms. Oppenheimer supports centralization and believes it is *"crucial"* to any large organization which is concerned with limiting its liability. Ms. Oppenheimer emphasized that she *"had never heard of"* having a statute of limitations (for reporting) of 30 days, as San Francisco has now. She supports having no deadline to file if the City is truly committed to encouraging people to come forward.

**Ginny Vida**, currently employed as an investigator/auditor with the San Francisco Ethics Commission of San Francisco, presented testimony based on her previous experience as a Director of Sexual Harassment Issues at the New York State's Office of Human Rights (7/93-9/95). Ms. Vida's experience in New York supports having a centralized office for sexual harassment. The staff of this new office received specialized training in sexual harassment so that the staff could resolve complaints, most frequently, through facilitation and mediation. *"As of September, 1995, the New York office was processing between 50 to 60 cases a month through conciliation and mediation, and through formal investigation, and they are still producing those*

numbers.” In the centralized sexual harassment office of New York state, Ms. Vida stated that, *“the staff received several special trainings in sexual harassment law and legal precedents...These training sessions were very helpful to our staff in developing fair and efficient procedures for handling complaints...”* Ms. Vida supports the Rossein’s recommendation because it best serves the interests of the employees and the city’s financial resources. Ms. Vida stressed the importance of early intervention and appropriate corrective action to enforce any new, centralized sexual harassment office.

**Alma Sisco-Smith**, the Campus Coordinator for the UCSF Office of Sexual Harassment Prevention and Resolution, spoke from the perspective of directing a centralized office for sexual harassment and the second largest employer in the city of San Francisco. UCSF is a helpful comparison for the City and County because it has 20,000 employees and 3,500 students and because the Implementation Plan included many of the same concerns, issues and problems UCSF faced. UCSF centralized its sexual harassment office after a task force for the entire UC system made this recommendation in 1991. Ms. Smith stated that many of the UCSF Task Force recommendations were exactly the same as the City’s Task Force recommendations, including centralization of procedures. She also stated that the Task Force articulated the obligation of UCSF to respond to all complaints (verbal or written), not simply formal written complaints. UC campuses deal with sexual harassment in this centralized, uniform manner. As testament to the need, Ms. Sisco-Smith stated that complaints at UCSF increased “fourfold” after the establishment of the centralized office. At the conclusion of the UCSF Task Force (1991) there was a concern about it being implemented because of cost. Ms. Sisco-Smith stated that the Task Force response to that was, *“we cannot afford NOT to do it, for some of the reasons I have already mentioned to you...The Task Force calculated that implementation would cost one-tenth of what sexual harassment was already costing the institution.”*

**Linda Jofuku**, a Union Representative from Local 21, shared her testimony time with **Kate Read**, an employee with the Department of Public Works for 22 years. Ms. Read gave a personal account of how she experienced sexual harassment on the job as a Building Inspector for DPW. Ms. Reed’s account included harassment by a subcontractor to the general contractor which was doing construction on a Market Street location. Her account reveals innuendo and sexual expletives which were directed at her explicitly. Ms. Reed believes that the area of sexual harassment within a contracting/subcontracting arrangement needs immediate attention as there is currently no binding language in contracts which hold contractors responsible for their behavior to city employees.

**Ms. Jofuku** underscored the importance of addressing the issue of sexual harassment with contractors and that she has been working with Mr. Ed Lee of the Human Rights Commission to come to some resolution in this area. She also states that (Local 21) represent public employees of the City and County of SF, primarily professional and technical employees. Ms. Jofuku stressed that *“this is a meet and confer matter”*. Local 21 represents 1233 and 1231 Affirmative Action Officers which deal with discrimination issues and sexual harassment issues. Ms Jofuku expressed the concerns of Local 21 to be: how discrimination is handled throughout the city and county, potential threats to due process, separating out sexual harassment from other discrimination complaints (a particular concern for women of color), time lines of investigation. Ms. Jofuku also



expressed that while it may be necessary to designate personnel to deal with sexual harassment, it is not, in her opinion, necessary to create a "bureaucracy to the tune of a half a million dollars". Finally, Ms. Jofuku stated that *"A capital tax of \$25 per employee may not be feasible either."* as was suggested in the Plan.

**Caryl Ito** emphasized that the COSW understands the nature of meet and confer issues and that COSW has been in constant, ongoing contact with the City Attorney and Wendell Pryor about these issues. She also thanks Kate Reed for the testimony which reveals the need to improve policies with contractors and sexual harassment.

**Barry Chersky**, Chair of the Training Committee of the Sexual Harassment Task Force and a Trainer/Consultant for Sexual Harassment. Mr. Chersky spoke briefly about training for sexual harassment and the resolution of sexual harassment situations. Mr. Chersky announced that the most recent Merit Protections Board investigation/research shows that the incidence of sexual harassment has increased in the workplace since the study was done seven years ago. Mr. Chersky believes that every city employee should receive mandatory training on sexual harassment. Guidelines should also be distributed. Mr. Chersky strongly supports resolution at the most informal level. The importance of this is underscored by people's reluctance to come forward because of the fear of retaliation in the workplace. All steps to make it easier to complain should be encouraged, for example not making it a requirement that it be in writing which particularly affects individuals whose first language is not English.

**Commissioner Clothilde Hewlitt**, from the SF Police Commission, stated that San Francisco Police Department in cooperation with COSW enacted the most progressive policy on sexual harassment in the nation. Even though it is so progressive, Ms. Hewlitt stated that the SFPD still has a major problem in the workforce. This is because most officers do not understand what sexual harassment is and what it means to create a hostile environment. They do not understand the meaning of a zero-tolerance standard. Ms. Hewlitt stated that she fully supports the Task Force Draft Implementation Plan because she believes that training is paramount to breaking down the culture which supports sexual harassment in the workplace. This includes education, monitoring and a centralized office of investigation with investigators who are sensitive to the issues of sexual harassment. Commissioner Hewlitt stated some potential problems that the police department might face regarding this Implementation Plan. The primary concern was that the police department is governed by state law and is governed by the Charter which limit the number of people who can conduct investigations into personnel matters and who can impose discipline. *"However"* Commissioner Hewlitt states that *"should not be a road block...and that the city should find the means to designate investigators, under state law or if need by a charter amendment, to address this issue. For it is important to have an office outside the police department so that victims of sexual harassment inside the police department can go, feel comfortable and feel free from any type of retaliation."*

**Frances Pinnock**, a member of the Sexual Harassment Task Force and an Attorney who has represented plaintiffs who have sued the City and County for sexual harassment. Ms. Pinnock stated that her experience has revealed a *"primitive and crude"* method of investigations and that most testimony which she hears of victims being investigated are *"botched"* and investigators are

*"always in favor of the harasser". Ms. Pinnock is interested in improving the system for female victims of sexual harassment. She also emphasized the importance to deal directly with this problem as she just received a check in the amount of \$600,000 which was part of the settlement the city paid pursuant to a plaintiff who sued the SF Fire Department for sexual harassment. Ms. Pinnock also pointed out that the reality of retaliation is a primary deterrent for people coming forward to make a claim of sexual harassment and that the City has is notorious in is retaliatory actions, as shown by a recent well-known case that found the city did not discriminate but did retaliate against a women's claim of harassment. In this case, the jury found that "retaliation went right to the top and the jury decided 12-0 that the city did retaliate...[while they] decided 9 to 3 against harassment...that is a terribly serious finding by a jury. This city and county was guilty again of retaliation." Ms. Pinnock stated that "retaliation is totally prevalent throughout the city..."*

Erin Day, a representative from Equal Rights Advocates, read testimony on behalf of **Judith Kurtz**, Managing Attorney for Equal Rights Advocates. Ms. Kurtz emphasized the importance of extending the filing deadline for complaints from 30 days to 365 days. Ms Kurtz believes that *"Not only is this unrealistic from the victim's point of view, but a 30 day time line appears designed to eliminate legitimate complaints rather than eliminate harassment itself."* Furthermore, Equal Rights Advocates supports the Task Force's creation of formal and informal filing procedures. She states that *"most large employers today recognize the need for taking action when there is any reason to believe illegal sexual harassment might have taken place."* Ms. Kurtz outlines the legal ramifications and increased liability for the City without informal filing procedures. Equal Rights Advocates also supports the centralized procedure to afford *"all employees the same protections and end confusion about the rights of employees in different City departments"* and they support a centralized tracking system.

**Wanda Jung**, an Civil Rights/Affirmative Action Coordinator from the Department of Social Services stated that DSS agrees that all forms of discrimination should be eliminated and are intolerable. She stated that DSS supports some elements of the proposal of the Implementation Plan. They support a centralized tracking system, standardized complaint process, certification of investigators and consistent training throughout to all city departments. *"Training is the key to eliminating sexual harassment"* in the workplace. Ms. Jung outlined the procedures that DSS uses to deal with sexual harassment with its own EEO office. Ms. Jung stated that DSS does not support the recommendation of a centralized sexual harassment unit because the relationship which is established by EEO officers at the departmental level is crucial to eliminating sexual harassment at the most local level. Ms. Jung states that *"the reason why we are not in support of that is because we believe that all discrimination complaints should be responded to with the same and equal serious considerations, guidelines and procedures. We feel that the departments decentralized offices have been effective in responding to clients and staff regarding discrimination. The offices are located within the department, readily accessible to staff and to clients."*

Break, 10 minutes.

**Denise Couter-Graham**, currently employed as a Cashier with the North Beach Pool,



Department of Park and Recreation, testified about her personal experience with sexual harassment. Her emotional and very personal account included her being lifted, against her will, into a dark closet, shutting the door and surviving the physical groping by two male employees. It also included her screams for help and the inaction of a co-worker who said that he would not support her coming forward with her complaint because "he did not see anything that happened". Ms. Couter-Graham's testimony implored the audience to address sexual harassment in the workplace through education so that her experience will not be repeated in the lives of her young children as they enter the work force.

**Mary Dryovage**, Attorney and the Chair of the California Employment Lawyer's Association, stated that one of the city's most valuable assets is its employees. Allowing sexual harassment to exist to the extent in the city that it does decreases productivity through absenteeism, emotional distress and decreased morale. Ms. Dryovage supports the centralization of ALL EEO issues.

**Jean Crossman-Miranda**, Executive Director of the Employee Assistance Program (EAP) for the City and County of San Francisco, emphasized the importance of focusing on the human element of the sexual harassment complaint. Ms. Crossman-Miranda outlined the services EAP offers to the City and County employees and stated by examples the emotional stress of how sexual harassment in the workplace manifests in an individuals' life on a daily basis. *"Oftentimes this is seen as fear of retaliation and fear of not being believed...The human toll of sexual harassment is what shows up on our doorstep...the human cost. We see the problems that show in the family and work relationships. The quality of their work is definitely effected... We see this all the time."* Significantly, EPA clients who are victims of sexual harassment do not come to the agency stating that they are victims of sexual harassment, they instead complain of "stress", *"family problems"*. It is not until after some probing by a counselor that the individual is actually able to identify that sexual harassment is the root cause of their stress. Ms. Crossman-Miranda *"support(s) the policy outlined in the plan, whole-heartedly."*

**Sharon Hoff**, a Training Specialist on gender issues and sexual harassment in the school system. Ms. Hoff emphasized that sexual harassment behavior begins at an early age and is *"rampant throughout the schools"*. She stated that four out of five students experience sexual harassment in their school careers, *"some as early as first grade"*. Ms. Hoff supports the recommendation to create a gender equity curriculum to be developed and implemented into the SF City and County school systems.

**Alice Fialkin**, Transport Workers Union Representative, stated that there was a lack of recognition and consideration of union concerns. Ms. Fialkin expressed concerns about threats to due process, privacy and basic assumptions of innocence until proven guilty. Ms. Fialkin stressed that unions have the right to Meet and Confer all issues in a sexual harassment policy. Ms. Fialkin also stated that Local 200 is concerned about centralization of EEO issues because the unions have discrimination grievance procedures involving the departments and *"we certainly do not want to compromise that."* Discipline is also a significant concern as Ms. Fialkin stated, *"Currently, departments have the flexibility to set discipline, knowing the parties involved and the individuals involved, and we are concerned that this would be prevented under the uniform"*

*guidelines. [We] find it successful to use departmental procedures to resolve things at the local level...Keeping files on people who are not found at fault violates our contract. And furthermore, releasing that information to relevant and necessary officials also violates our contract."* Ms Fialking stated that she would like union participation in the training of management and also she has concerns about privacy issues about reporting sexual relations, due process and the responsibility of supervisors to turn people in if they are reasonably expected to know of problems.

**Caryl Ito** reiterated the intent of COSW to make sure that Meet and Confer issues happen with the proper city entities. She also stated that COSW had put certain union names forward to be appointed to the Task Force and the Mayor, at that time, chose not to appoint them. In this way, the lack of union representation on the Task Force was beyond the scope of COSW's control.

**Heather Quinn**, representative for Assemblywoman Jackie Speier's Office, cited a 1994 report put out by the California Assembly about the presence and cost of sexual harassment across the state of CA. This report stated that California state tax payers paid out more than \$15 million in litigation, training, mediation, investigations and settlements. It also stated that sexual harassment is pervasive. Complaints are up, since the last report of 1992, for example. Also, along with the increase in complaints is the increase in the size of settlements granted in sexual harassment lawsuits. All state agencies have one policy which is posted at the workplace. Most agencies provide prevention trainings to management and most of staff. On behalf of Assemblywoman Speier, Ms. Quinn supports the recommendations of the Rossein Report, including centralization of a sexual harassment unit and the extension of timeliness. She states that the recommendations of the Implementation Plan are "*common-sensical*." Ms. Quinn emphasized the importance of sexual harassment trainings towards elimination of sexual harassment in the workplace.

**Cheryl Cook**, Director of Veterans Affairs, is the new contact person for employees in the area of sexual harassment in her office. She stated she had a particular need for increased sexual harassment training and technical assistance given her new role.

**Betty Bortin**, Council to Sheriff's Department, stated that she agrees with all speakers regarding the cessation of sexual harassment and supports zero-tolerance toward harassment of any kind. This is the standard which has been set in the Sheriff's Department. This includes immediate investigations (ie: within minutes), swift and appropriate corrective action, training of all employees, inclusion of victims input in the investigation and discipline, follow-up to ascertain that they are back to work comfortably and to emphasize that retaliation is another form of prohibited harassment. Ms. Bortin emphasized the importance of having a safe place for victims to go to and talk or to report incidents. Ms. Bortin stated that Sheriff Hennessey would like to maintain the decentralization of disciplinary and investigatory processes and keep it "in house". Furthermore, the Sheriff does not separate his treatment of sexual harassment from any other form of inappropriate behavior that can amount to discrimination based on race, sexual orientation, religion, etc. It is all unacceptable and should all be investigated in the same manner. Sheriff Hennessey supports the endeavors of COSW but "respectfully requests to have the investigatory and disciplinary actions decentralized."



**Maggie Grover**, Attorney with Corbett and Kane, a management, litigation firm. Ms. Grover stated that there are very good reasons for separating out sexual harassment from other forms of discrimination (legally). Ms. Grover stated that such separation does not mean that other forms of discrimination are not important and should not be promptly investigated and addressed, but sexual harassment is different from the other categories because our society has difficulty discussing issues of sex. She stated, *"Sexual harassment is different from the rest of [other EEO issues]. In our society we have difficulty talking about issues of sex. This makes training much more difficult. This makes understanding the work rules of sexual harassment much more difficult. If a supervisor addressed a subordinate with a racial slur, everyone in the room would [identify it]. But many people are unclear that 'Hey honey, get me a cup of coffee' is not acceptable. We need separate treatment for training...and investigation."* Many employers have adopted a separate unit with varying degrees of success. This separation is acceptable under CA state law, in fact.

Ms. Grover stated many positive effects of alternative dispute resolution and supports this as a method of early intervention and resolution. ADR benefits the complainant and the employer, alike.

Written Testimony was submitted by:

**Willie Brown**, Mayor of San Francisco

**Andra Gomberg**, Director, Office of Affirmative Action, Sexual Harassment Unit, Chicago, Illinois

**Sandra Hernandez**, M.D, Director of Public Health

**Linda Jofuku**, Sr. Representative, Local 21, International Federation of Professional and technical Engineers

**Judith Kurtz**, Managing Attorney, Equal Rights Advocates

**John Marquez**, Manager, EEO Program at Department of Public Works

**Ginny Vida**, Former Director of the Office of Sexual Harassment Issues, New York State Division of Human Rights





